

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSE LOPEZ TORRES, ALVIN GAITAN
BENITEZ, CHRISTIAN LEMUS CERNA,
OMAR DEJESUS CASTILLO, MANUEL
ERNESTO PAIZ GUEVARA, and
JESUS ALEJANDRO CHAVEZ,

Defendants.

Crim. No. 1:14cr306

April 20, 2016

JURY TRIAL

BEFORE: THE HONORABLE GERALD BRUCE LEE
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR GOVERNMENT: UNITED STATES ATTORNEY'S OFFICE
BY: JULIA MARTINEZ, AUSA
TOBIAS TOBLER, AUSA

OFFICIAL COURT REPORTER:

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U.S. District Court
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Jose Del Cid (Cont.)	5	95	(Not completed)	
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(Court recessed)

PROCEEDINGS

(Thereupon, the following was heard in open court at 10:03 a.m.)

THE CLERK: 1:14 criminal 306, United States versus Jose Lopez Torres, Alvin Gaitan Benitez, Christian Lemus Cerna, Omar Dejesus Castillo, Manuel Ernesto Paiz Guevara, and Jesus Alejandro Chavez, with previously sworn Spanish interpreters, same as before.

THE COURT: Good morning. Good morning, everyone.

Ready to bring the jury out? Okay.

You can bring the jury out, Mr. Toliver.

Thank you.

(Jury present.)

THE COURT: You may be seated.

Good morning, ladies and gentlemen.

THE JURORS: Good morning.

THE COURT: Good morning, Mr. Omar Dejesus Castillo.

Good morning, Mr. Manuel Ernesto Paiz Guevara.

Good morning, Mr. Jesus Alejandro Chavez.

Good morning, Mr. Alvin Gaitan Benitez; good morning.

1 Good morning, Mr. Jose Lopez Torres.

2 Good morning, Mr. Christian Lemus Cerna.

3 And let me also say good morning to all of
4 our interpreters this morning. Ms. Lefèvre is here
5 somewhere, Ms. Estrada, Erin Gaskin-Owens, Ms. Horvath,
6 Mr. DeCastellví and Ms. Blumberg.

7 THE INTERPRETER: Ms. Blumberg is delayed
8 because of the traffic.

9 THE COURT: Okay. That's fine.
10 Ready to bring the witness out?

11 MS. MARTINEZ: Yes, Your Honor.

12 THE COURT: Bring the witness out.

13 (Witness resumed stand.)

14 THEREUPON, JOSE DEL CID, previously duly
15 sworn, testified further as follows:

16 DIRECT EXAMINATION (Continued)

17 BY MS. MARTINEZ:

18 Q. Good morning.

19 A. Good morning.

20 Q. When we stopped for the day yesterday, we were
21 talking about Peligroso.

22 A. Yes.

23 Q. Who was Peligroso?

24 A. He was a member of the PVLS clique. He was the
25 first one I met here in the U.S.

1 Q. You know what happened with him?

2 A. Well, they gave him a green light because he was
3 talking and saying he was the first word. And, then he
4 wanted to get away from the clique, and he was like
5 trying to get together -- get some people in Woodbridge
6 to be with him.

7 Q. You said he was green lit?

8 A. Yes.

9 Q. Who ordered the green light?

10 A. Payaso.

11 Q. Once the green light was in place, was there a
12 plan developed about how to kill him?

13 A. Yes.

14 Q. Were you involved in discussions about this plan?

15 A. Yes, I was.

16 Q. Were other members of the gang, of your clique,
17 also involved in discussion?

18 A. Yes.

19 Q. To your knowledge, who was involved in
20 discussions about the plan to kill Peligroso?

21 A. Satánico, Greñas. Well, there was also a *paro*.
22 He was going to become a *chequeo*, if we ever killed the
23 guy. Guasón was also there. Guepardo. There was also
24 another homeboy, he had just gotten out of prison. He
25 was called Drowsy. And I -- we were all present there.

1 Q. You mentioned a *paro*. Do you know the *paro*'s
2 name.

3 A. Marciano.

4 Q. Where were these discussions?

5 A. It was in Culmore.

6 Q. Where in Culmore?

7 A. Well, practically, in downtown, in the center of
8 Culmore.

9 Q. Inside, outside?

10 A. Well, it's in the center of Culmore.

11 Q. Where were you during the discussions?

12 Were you in doors or outdoors?

13 A. It was a patio. It was outdoors.

14 Q. Outdoors of a house or an apartment, or something
15 else?

16 A. Well, we were open air, outside, outside of the
17 houses.

18 Q. What was the plan?

19 A. Well, the plan was the four homeboys were going
20 to go in a car towards him, once he got out of school.
21 Well, practically, there were three homeboys, and the
22 *paro*, the *paro* was going to become a *chequeo* once they
23 did the hit.

24 So, the plan was to watch him, because he was
25 going to a school in Woodbridge. And as soon as he got

1 out, they were going to hit him -- well, Satánico,
2 Greñas and the *paro* who was going to be a *chequeo*. So,
3 that was the plan, to watch him once he got out, and
4 then they were going to go and kill him.

5 Q. What weapons were discussed?

6 A. Well, they had two machetes and a shotgun, a 12.

7 Q. Who was supposed to go?

8 A. Greñas, Marciano, and Drowsy, and Satánico was
9 going to wait for them in the car.

10 Q. What was your role?

11 A. Well, I was like a watch out, watching to make
12 sure the police wasn't going to come.

13 Q. You've also mentioned a homeboy named Lagrima.

14 A. Yes.

15 Q. Who was Lagrima?

16 A. He was a homeboy. He belonged to the PVLS
17 clique.

18 Q. What did he look like?

19 A. He was big, strong, tall physically. That's the
20 physical description.

21 Q. Did he have any tattoos?

22 A. Well, yes, he had his leg, the tattoo on the MS,
23 also, in this part of the arm, he had another tattoo,
24 some tears on the left side.

25 MS. MARTINEZ: Your Honor, may we show the

1 witness what has been admitted into evidence as
2 Government's Exhibit 61-A?

3 THE COURT: Yes.

4 BY MS. MARTINEZ:

5 Q. Do you know who this is?

6 A. That was the homeboy, Lagrima.

7 Q. Do you know what happened to him?

8 A. Well, the members of the gang, they killed him.

9 Q. Were you involved in that?

10 A. Yes.

11 Q. You know why the gang killed him?

12 A. Because the clique suspected that he was
13 snitching, or ratting. And, in those days, he was also
14 doing things like were not allowed, like drinking and
15 doing things that were not allowed.

16 And then, on a call, when somebody with somebody
17 in El Salvador, he disrespected that homeboy in El
18 Salvador.

19 Q. You said he was doing things like drinking that
20 were not allowed. What does that mean?

21 A. He was also smoking every day. Well, in those
22 days, the first words had given us a dry law, meaning we
23 could not drink. We could not smoke.

24 Q. You also said that the clique suspected him of
25 being a snitch.

1 A. *Sí.*

2 Q. Do you know why the clique suspected him of being
3 a snitch?

4 A. Well, because in those days, the police caught
5 him. And, they let him -- they let him out right away.

6 And, the homeboys questioned him, "How come, you
7 know, they caught you and then they let you out right
8 away?"

9 And, then he was telling all the time that he was
10 kind of angry with the police --

11 Q. What home- --

12 A. -- or hard with the police.

13 Q. What homeboys questioned him about why the police
14 let him out?

15 A. Well, Greñas, Payaso; those were, basically.

16 Q. What happened after Greñas and Payaso questioned
17 him about that?

18 A. Well, Greñas requested that green light for him.

19 Q. Do you know who ordered the green light?

20 A. Payaso.

21 Q. Once there was a green light on Lagrima, was
22 there a plan developed about how to kill him?

23 A. Yes.

24 Q. Were you involved in discussions about that plan?

25 A. Yes.

1 Q. Were other homeboys, to your knowledge, involved
2 in discussions about that plan?

3 A. Yes.

4 Q. I want to ask you which homeboys were involved.
5 Let me first ask you, to your knowledge, was the person
6 we agreed to call homeboy two involved in discussions
7 about the plan to kill Lagrima?

8 A. Well, he was also present. Also Greñas, Lil
9 Poison, Lil Payaso, Lil Slow, myself, Tuner, and Lil
10 Evil. And Payaso was also there in line -- by
11 telephone.

12 Q. Do you know who organized the murder?

13 A. Greñas.

14 Q. What was the plan?

15 A. Well, the plan was to take him to a place where
16 we usually had meetings. We called that place Crisco.
17 And, the plan was to tell him first that they were going
18 to give him like a punishment, a *calentón*.

19 And, so four homeboys, they were going to give
20 him what's called the *correctivo*, and Greñas was going
21 to be counting the minutes. And, Lil Poison was the one
22 who was going to stab him.

23 So, when Greñas reached the number 13, we were
24 supposed to run, all of us, grab him by the arms, by the
25 legs, so that he -- Lil Poison, so that Lil Poison could

1 stab him.

2 Q. You said that the murder was supposed to take
3 place at the place where you had meetings.

4 A. Yes.

5 Q. Where was that?

6 A. Well, by Culmore, that place that -- behind
7 Barcroft, and there are some woods there. That's where
8 we're going to carry out the plan that we had.

9 Q. What weapons were planned to be used?

10 A. Machetes and knives.

11 Q. What was the plan to do with the body once he was
12 dead?

13 A. To bury him.

14 Q. Where?

15 A. The same place there, in the woods. Well, a
16 little bit further from where we had killed him. The
17 hole had been made already.

18 Q. Did the clique follow that plan?

19 A. Yes.

20 Q. What happened when you first arrived in the woods
21 that night?

22 A. Well, first, all the homeboys got there. And
23 then Lagrima, he was the last one to arrive. Well, and
24 first, we had our meeting, our meeting we had before he
25 got there. And Payaso was on the -- on line by the

1 telephone.

2 Q. What happens at the beginning of the meeting?

3 A. Well, we called Payaso, and then we talked about
4 what role each one of us was going to have.

5 Q. When you first arrived, how do you greet each
6 other?

7 A. Well, our homeboys, each time we got together, we
8 greeted each other with a claw.

9 Q. What is the claw, *la garra*?

10 A. Like this (indicating).

11 MS. MARTINEZ: Your Honor, may the record
12 reflect that the witness is holding his pinky and index
13 fingers up with the middle fingers folded, with the
14 thumb holding the middle fingers.

15 THE COURT: So noted.

16 BY MS. MARTINEZ:

17 Q. What does that sign, that hand sign mean?

18 A. Well, what they told me is that these two are the
19 horns of the beast. Those are the two faces of life,
20 the two roads, the road that we have to walk, and the
21 *chavala* that we have to kill.

22 Q. What do you mean by "the two roads"?

23 A. Life and death.

24 Q. I want to talk about who was there the night that
25 the clique killed Lagrima.

1 Let me first ask, was the person we agreed to
2 call homeboy two there the night that the clique killed
3 Lagrima?

4 A. Yes, he was present there.

5 Q. And, in addition to homeboy two, who else was
6 there?

7 A. Greñas, Lil Poison, Lil Payaso, Lil Slow, Skinny,
8 myself, and Lil Evil.

9 Q. I don't think we've mentioned Skinny yet before.
10 Who is Skinny?

11 A. He's also a homeboy from our clique.

12 MS. MARTINEZ: May we show the witness what
13 has been already entered as Government's Exhibit 77?

14 THE COURT: Yes.

15 BY MS. MARTINEZ:

16 Q. Do you know who that is?

17 A. That is Skinny.

18 Q. Continuing with the night of the murder, once the
19 meeting started, was Lagrima informed about the supposed
20 *calentón*?

21 A. Yes. As soon as he arrived, we told him that he
22 was going to get a *calentón*, because of his behavior.

23 Q. What was his reaction?

24 A. Well, he did not agree, but then, he said, "Well,
25 okay. I welcome this."

1 Then, Greñas told him he was going to get a 26,
2 not a 13.

3 Then he started arguing like, "Why? Why are you
4 going to give me a 26?" But then, he accepted it.

5 Q. Once the conversation about the *calentón* was
6 over, what happened?

7 A. Well, we walked down here towards the river. And
8 so, the four homeboys went down and he got in the
9 center, the middle.

10 Q. And before you continue, I want to ask about the
11 four homeboys. Let me first ask, was the person we
12 agreed to call homeboy two one of the four homeboys that
13 circled him?

14 A. Yes.

15 Q. In addition to homeboy two, who were the other
16 three who circled him?

17 A. Lil Payaso, Skinny, and Lil Evil. Greñas was
18 going to count. And he had the clothing of -- Lagrima's
19 clothing, his shirt, his hat.

20 Q. What happened next?

21 A. Well, Greñas said *trucha*, and they started to hit
22 Lagrima.

23 Q. Was he knocked down?

24 A. Well, he fell down on the ground and they were
25 still hitting him down there.

1 Q. What happened after he was knocked down?

2 A. Greñas said *trucha*, and we all ran to grab him by
3 the arms and by the legs.

4 Q. What happened next?

5 A. Lil Poison came and he started to stab him in his
6 stomach with his knife.

7 And Lagrima said, "Hey, what are you going to do
8 to me?"

9 Greñas told him, "We are going to kill you,
10 because you're a rat."

11 And he said, "No, no, no, I'm not a rat. I'm not
12 a rat."

13 Greñas said, "Oh, come, come, yes, we know you're
14 a rat."

15 And then he said, "Okay, I'm going to tell you
16 who is the one who is ratting."

17 But, that moment, Lil Poison put the machete on
18 his throat and started hitting the machete until he cut
19 his throat. And then he started to hit him again on the
20 throat, on the jaw.

21 And then we all started stabbing him on the
22 stomach, on the ribs.

23 And Skinny was saying, "Watch out, don't spill
24 blood on your clothing," because he didn't want to get
25 home with blood on his clothing, because he had a little

1 child that he saw, and he did not want her to see him
2 arriving with blood on his shirt.

3 And Lil Slow, also, he said at that moment that
4 he was going to faint.

5 Q. What happened after Slow said that he was going
6 to faint?

7 A. Well, to be strong because otherwise he was going
8 to stay there with Lagrima.

9 Q. What did Slow do after Greñas told him to be
10 strong, or he'd stay there with Lagrima?

11 A. Well, he said, *trucha* and he started to stab
12 Lagrima also.

13 Q. What did you do during the murder?

14 A. Well, I hit him with a knife on the ribs, and
15 then once we moved the body toward the area where we
16 were going to bury him --

17 Q. We'll get to that in just a moment. Focusing
18 still on the murder, what did Lil Payaso do during the
19 murder?

20 A. He was also stabbing him in the stomach with a
21 knife.

22 Q. At any point, did Lagrima attempt to get up or
23 get away?

24 A. Well, we were holding him there, and he saw that
25 he was going to die, so he tried to get up. But Lil

1 Payaso hit him -- hit him in the stomach.

2 And then Greñas complained, why did we let him
3 loose. Why did we let him go.

4 And after that, Lagrima died.

5 Q. What did Lil Evil do during the murder?

6 A. Lil Evil was stabbing him in the ribs with a
7 knife.

8 Q. How many times was Lagrima stabbed?

9 A. I wouldn't know what to say because it was quite
10 a number of times that we went at him.

11 Q. Please continue.

12 A. It was several times that we went at him, also
13 with the machete and then also with the knife.

14 Q. What was the last thing that Lagrima said?

15 A. He was going to tell us who was ratting.

16 Q. Did he have an opportunity to tell who was
17 ratting?

18 A. No.

19 Q. Why not?

20 A. Because Lil Poison put the knife to his throat
21 and began to go at it.

22 Q. What happened after Lagrima was dead?

23 A. We moved him to where the hole was.

24 Q. Where was the hole?

25 A. Well, there's a bike path, you know, on the other

1 side there's a bike path, and it's in the same woods.
2 And so we moved him over there where the dudes had
3 already dug the hole.

4 Q. Once he got to the hole, did the body fit in the
5 hole?

6 A. No, it didn't fit because his legs stuck out.

7 Q. What happened?

8 A. So, we grabbed the machete and began to go at the
9 legs. And then we doubled them over and stuck them in
10 the hole as well.

11 Q. Then what did you do?

12 A. Then we began to put dirt and rocks on top.

13 Q. What kind of rocks?

14 A. Big rocks like this size (indicating).

15 MS. MARTINEZ: Your Honor, may the record
16 reflect that the witness was holding --

17 BY MS. MARTINEZ:

18 Q. Can you hold your hands like that again?

19 A. (Indicating.)

20 MS. MARTINEZ: Maybe 12 to 18 inches apart.

21 THE COURT: 12 to 18 inches is exactly
22 right. Thank you.

23 BY MS. MARTINEZ:

24 Q. Why did you put rocks on top of the body?

25 A. Filling the hole more quickly, you know. And so

1 that once the body started to swell after a few days, it
2 wouldn't push up the dirt.

3 Q. After the night of the murder, did you ever go
4 back to where Lagrima was buried?

5 A. Yes.

6 Q. Why?

7 A. Because Greñas, the homeboy, sent me to check it
8 out, you know, to check out the place, to check out the
9 hole and make sure that the dirt wasn't getting pushed
10 up or anything like that.

11 So, I went that day and, I saw that, you know,
12 the dirt was coming up. And, other homeboys also, you
13 know, they had already gone there. And, they realized
14 that there was some construction being done. So, we
15 made the decision that we needed to move that body.

16 Q. Were you involved in moving the body?

17 A. Yes.

18 Q. What did you bring with you that night?

19 A. Greñas told me I should bring two black trash
20 bags.

21 Q. For what purpose?

22 A. To put the body in the bags and move it to
23 another hole.

24 Q. Were other people involved in reburying the body?

25 A. Yes.

1 Q. What did others bring in addition to the trash
2 bags that you brought?

3 A. Lil Payaso brought acid and mask -- the mask.

4 Q. Why a mask?

5 A. To cover our mouths, because we knew the body was
6 going to stink.

7 Q. Why acid?

8 A. To dissolve the body more quickly.

9 Q. Who was present when you and the others reburied
10 Lagrima?

11 A. Greñas, Lil Poison, Lil Payaso, Lil Slow, me,
12 Tuner, and homeboy two.

13 Q. Who -- where were you during this?

14 A. Well, I was, you know, I was almost -- near the
15 same spot where we killed Lagrima because we were all on
16 the same line on the phone. We were there, you know,
17 they had sent me some place to act as lookout, to make
18 sure nobody was around. Greñas was by the street --
19 actually by that trail near where we killed Lagrima, and
20 Skinny and Lil Poison were on the other side of the
21 river.

22 Q. What did you do --

23 MR. AMOLSCH: Objection, Your Honor. May we
24 approach, please?

25 THE COURT: Yes. Okay.

1 (Thereupon, the following side-bar
2 conference was had:)

3 MR. SALVATO: Thank you, Your Honor.
4 Your Honor, there's been substantial testimony that our
5 client personally, Mr. Cerna, known as Leopardo, was
6 involved in the reburial of Lagrima. The Court has
7 allowed that. There's been transcripts about that, as
8 well as other evidence.

9 During this witness's recitation of the
10 Lagrima murder itself, he was able to comply with the
11 Court's directive and the government's directive in
12 terms of identifying Mr. Cerna as homeboy two. And I
13 thought that that took place without any issue.

14 However, during his description of who was
15 involved in the reburial -- and the jury already knows
16 that Leopardo, or Christian Lemus Cerna, was involved in
17 the reburial -- he listed everybody else that was
18 involved in the reburial, and then said, also, homeboy
19 number two was involved in the reburial.

20 It's very obvious now, that since the other
21 evidence has been that Christian Lemus Cerna or Leopardo
22 was involved in the reburial, his identification as the
23 last remaining person being homeboy two, the jury knows
24 that connection now that Leopardo, and Christian Lemus
25 Cerna, is homeboy number two.

1 We let it go for a couple questions so we
2 weren't standing up and being obvious about it, but, I
3 think at this point, Your Honor, I think we're forced
4 to --

5 MR. AMOLSCH: Yeah, of course.

6 MR. SALVATO: -- force to request a
7 mistrial, based upon what just took place.

8 THE COURT: All right, the direct
9 examination is not over yet.

10 Go ahead.

11 MS. MARTINEZ: Your Honor, I was just going
12 to respond. We disagree that a mistrial is warranted.
13 We certainly agree that he did say homeboy two. I don't
14 think it's obvious to the jury that, who he's talking
15 about.

16 And I know that leading is not preferred,
17 but we've had a lot of testimony that Leopardo was
18 involved in the reburial.

19 What I would suggest, to fix it, is a mild
20 leading question about whether Leopardo -- or what
21 Leopardo did during the reburial, so that the jury has
22 heard the word "homeboy two" and separately has heard
23 "Leopardo," which will make certain that they will not
24 associate the two together.

25 I also note that I believe just now when he

1 listed people, he actually didn't list everyone. He
2 didn't say Skinny. Then he went on and said something
3 about what Skinny did. So I don't think the list was
4 actually complete, which I think takes away from the
5 prejudice there. If the jury was comparing the list he
6 gave just now and the list someone else gave, Leopardo
7 was not the only person who was missing from that list.

8 So what we request is one of two things, to
9 clean this up. I don't think a mistrial would be
10 necessary. Either I be -- three things. Either I be
11 permitted to ask, "Was Leopardo, Guepardo, involved in
12 the reburial," or "What did Guepardo do during the
13 reburial?"

14 Or, alternatively, if everyone would prefer,
15 we could excuse the jury and briefly instruct the
16 witness on the record, we're going to ask about the
17 reburial, please remember to use, if necessary,
18 Leopardo, Guepardo, and do not say homeboy two, and go
19 back and ask the same questions and see if it cleans it
20 up.

21 I think any of those things will clean that
22 up very easily. I think the first two, actually better.

23 If counsel wants to point out an
24 inconsistency, that he said Leopardo and homeboy two,
25 and other people didn't say homeboy two was there, you

1 know, we won't object to that with argument at some
2 point. If they want to use that to their advantage,
3 we're not going to get in the way of that.

4 If we can simply get the witness to say
5 Leopardo, that will completely take away from the
6 suggestion that the jury believes that homeboy two is
7 Leopardo.

8 MR. SALVATO: Your Honor, I think the damage
9 has been done. The government asking these broad
10 questions on direct and eliciting this situation, I
11 think it really rests with them. The damage has been
12 done, Your Honor.

13 We suggested in many pleadings, and I know
14 Ms. Martinez --

15 MS. MARTINEZ: You objected to two leading
16 questions.

17 THE COURT: Address your comments to me.

18 MS. MARTINEZ: Pardon me.

19 MR. SALVATO: In our pleading, we observed
20 to specifically go through each individual, so that we
21 would avoid these broad, overarching direct questions
22 which elicited this response.

23 "Who else was involved in the reburial?"

24 And he listed homeboy two, is really the
25 last one that was involved in the reburial. I don't

1 believe Skinny was involved. I don't think my -- so, I
2 don't believe Skinny was involved at all in the
3 reburial. So really, the only one left is our client,
4 which he identified as homeboy two. It's -- it's a
5 clear link, and I think the damage has been done.

6 MS. MARTINEZ: Your Honor, if I may respond
7 to that.

8 One of the things the government requested
9 to do was to lead through these questions, with each
10 person. That suggestion was objected to strenuously by
11 defense counsel, requiring us to ask these broader
12 questions.

13 He did very well with the murder. This is
14 the only slip we've had. It's easily fixed.

15 THE COURT: All right. I'm going to deny
16 the motion.

17 I'm going to send the jury out, let you
18 instruct the witness, and the witness can be questioned
19 with leading questions. That's what we're going to do,
20 and I don't think a mistrial is warranted. Thank you.

21 (Thereupon, the side-bar conference was
22 concluded.)

23 THE COURT: Ladies and gentlemen, I need to
24 take up a matter with counsel. I need to have you step
25 out for a few minutes and then have you come back.

1 Thank you.

2 (Jury not present.)

3 THE COURT: You may be seated.

4 Members of the public who are present, I
5 need you all to step outside for a moment. I'll have
6 you come back in just a minute. Thank you.

7 (Thereupon, the following proceedings were
8 had under seal.)

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(Thereupon, the under seal proceedings were

1 concluded.)

2 THE COURT: You can bring our jury out,
3 Mr. Toliver. Thank you.

4 (Jury present.)

5 You may be seated.

6 All right, Counsel, you may proceed.

7 BY MS. MARTINEZ:

8 Q. Mr. Del Cid, before the break we were talking
9 about the reburial of Lagrima. Do you remember?

10 A. Yes.

11 Q. I want to ask you a few questions about the
12 details of that night.

13 A. Okay.

14 Q. And, first -- let me just ask you this: Was
15 Leopardo, or Guepardo, involved in the reburial of
16 Lagrima?

17 A. Yes.

18 Q. And, just for the record, to be clear, when I say
19 Leopardo, or Guepardo, I mean the same person. Do you
20 understand?

21 A. Yes.

22 Q. What was it that Leopardo did with respect to the
23 reburial of Lagrima?

24 A. Well, he, Lil Tuner and myself, we first dug out
25 the body from the hole, and we took it to -- towards the

1 other hole.

2 Q. When -- where was the other hole?

3 A. On the other side of the river, on top of a hill,
4 the same woods.

5 Q. How did you get the body there?

6 A. Well, we put the body inside the two black bags
7 that I had brought, and we carried him in our arms.

8 Q. Was it difficult?

9 A. Well, yes, it was very difficult because we had
10 to climb on top of the hill. And we kept falling down
11 and picking him up, and continued like that. We also
12 had to cross the river.

13 Q. When you got to the new hole, what did you do?

14 A. I helped the homeboys to throw the body inside
15 the hole. Then, Greñas came and threw acid on top of
16 it. And then we threw the soil, the rocks and also
17 branch.

18 Q. What kind of rocks?

19 A. Well, they were almost the same size of the rocks
20 that we had used for the first hole; also, some smaller
21 ones that we picked up from the river and we brought
22 them up.

23 Q. What happened after he was buried?

24 A. Well, we covered the hole and then we went down.
25 Well, and I wanted to change, have a change of clothing.

1 Some homeboys brought clothing with them, but I didn't
2 have any, because I was supposed only to help them to
3 act like a watch out, to make sure nobody else would --
4 was coming. I was not supposed to get near the body.
5 But the homeboys, when they were digging out the body,
6 they needed more help. Nobody else wanted to go, so
7 they told me, "You go."

8 MS. MARTINEZ: Your Honor, may we show the
9 witness what has been marked for identification purposes
10 as Government's Exhibit 104-D?

11 THE COURT: Yes.

12 MS. MARTINEZ: D as in dog.

13 BY MS. MARTINEZ:

14 Q. Do you recognize that picture?

15 A. Yes.

16 Q. Do you recognize the people in the picture?

17 A. Yes. This is the other homeboys, members of the
18 clique Park View.

19 MS. MARTINEZ: Your Honor, the government
20 moves Government's Exhibit 104-D into evidence.

21 THE COURT: Received.

22 MS. MARTINEZ: May we publish?

23 THE COURT: 104-D, yes.

24 BY MS. MARTINEZ:

25 Q. If we could, I'd like to have you identify the

1 people in this picture. We'll go one by one. Starting
2 with the back row at the left, the individual with the
3 stripes on his shirt, the adult, do you know who that
4 is?

5 A. To my left?

6 Q. Yes.

7 A. He's the homeboy Callejero from New York. He
8 also belongs to the Park View clique.

9 Q. Do you know who the child is standing next to
10 him?

11 A. He's also the son of another member of the
12 clique, Park View, and they call him Massacre. And we
13 were living at Massacre's house in those days.

14 Q. Continuing in the picture to the right, who is
15 the individual with the black shirt and a hat?

16 A. He's Lil Evil. He's a homeboy of the clique Park
17 View.

18 Q. The same Lil Evil that we talked about earlier
19 with respect to the murder of Lagrima?

20 A. Yes.

21 Q. What -- what is he doing with his hands there in
22 that picture. Can you tell?

23 A. He's showing the claw.

24 Q. Continuing in the right in the picture, who is
25 the tall individual with the blue and white striped

1 shirt, holding the child?

2 A. He's Skinny. And the child is his daughter.

3 Q. Continuing next to him, who is the individual
4 with the gray hat that says NYC?

5 A. He's Lil Slow.

6 Q. Who is the individual next to him in the white
7 shirt with the baseball cap that says New York?

8 A. That's me.

9 Q. Continuing next to you, who is the individual in
10 the black shirt and the black hat?

11 A. He's Tuner.

12 Q. The same Tuner we've been talking about?

13 A. Yes.

14 Q. Pesadilla?

15 A. Pesadilla, Lil Tuner, Tuner, it's the same.

16 Q. Who is the individual kneeling down in front of
17 Tuner, with a white T-shirt and blue long sleeves on his
18 arms?

19 A. He's Lil Wasón. He was the *chequeo* of the
20 clique.

21 Q. Who is next to Lil Wasón, holding that green box?

22 A. He's Lil Poison or Gerson.

23 Q. The same Lil Poison we've been talking about?

24 A. Yes.

25 Q. What's the green box?

1 A. It has, contains a bottle of liquor.

2 Q. Who is next to Lil Poison, holding the blue
3 bottle?

4 A. He's Greñas.

5 Q. The same Greñas you identified in court?

6 A. Yes.

7 Q. What's the blue bottle?

8 A. Another bottle of liquor.

9 Q. You mentioned earlier that there was a rule about
10 not drinking liquor.

11 A. Yes, that's true. But on that day, it was around
12 Christmas, so we had a pass that we could do that.

13 Q. Do you recall where this picture was taken?

14 A. This was taken in Baltimore, in the house of
15 Massacre.

16 Q. Do you remember what year, what Christmas this
17 was?

18 A. Well, it was Christmas 2013, beginning of 2014.

19 Q. And just to be clear, are you saying it was
20 Christmas day or Christmas time?

21 A. This was on the 24th.

22 Q. Let's talk about Lil Wasón, the person in the
23 bottom right corner here.

24 A. Okay.

25 Q. Who is Lil Wasón?

1 A. He was a *chequeo* of Park View, of the Culmore
2 section.

3 Q. Did you know him by any other names?

4 A. Well, I only knew him by his name, Gerson.

5 Q. When you say "his name," do you mean that's his
6 real name or is that another gang name?

7 A. No, that was his real name.

8 MS. MARTINEZ: Your Honor, may we show the
9 witness what has already been moved into evidence as
10 Government's Exhibit 62-B?

11 THE COURT: Yes.

12 BY MS. MARTINEZ:

13 Q. Who is that?

14 A. He's Gerson, or Lil Wasón.

15 Q. Do you know what happened to Lil Wasón, Gerson?

16 A. Well, the clique put a green light on him, and we
17 killed him.

18 Q. Were you involved in that murder?

19 A. Yes.

20 Q. Why did the clique put a green light on Lil
21 Wasón?

22 A. Because they were saying that he had stolen \$600
23 from the clique, that he owed money to the homeboys, and
24 that he has screwed the woman of another homeboy. The
25 homeboy was Skinny.

1 Q. Let's go through those one by one. What's the
2 problem with stealing money from the clique?

3 A. Well, that's one rule of the Mara. You can't
4 steal from the Mara or from the clique.

5 Q. What's the problem with having relations with the
6 woman of another homeboy?

7 A. Well, it's a disrespect to the other homeboy.

8 Q. Who authorized the green light?

9 A. Payaso.

10 Q. Who requested it?

11 A. Poison and Lil Payaso, and Tuner.

12 Q. Once the green light was issued, were there
13 discussions about a plan for how to kill him?

14 A. Yes.

15 Q. Were you involved in those discussions?

16 A. Yes, I was.

17 Q. Were others involved in those discussions?

18 A. Yes.

19 Q. Who else was involved in the discussions of the
20 plan to kill Lil Wasón?

21 A. Lil Slow, Guepardo, Lil Payaso, Solitario,
22 myself, Tuner and Lil Poison.

23 Q. At this time, what was Lil Poison's position in
24 the gang?

25 A. Well, at that time, he had the first word.

1 Q. What was Lil Tuner's position?

2 A. He was the second.

3 Q. What was the plan to kill Lil Wasón?

4 A. Well, we were going to follow the same procedure
5 as we did with Lagrima. We were going to take him to a
6 place, tell him there that he was going to get a
7 *calentón*. Four homeboys were going to punch him,
8 another homeboy was going to count.

9 And then, the rest of us were going to wait until
10 he come down, then we were going to hit him, and Lil
11 Poison -- no, Lil Tuner was going to be the one to stab
12 him.

13 Q. What was done in preparation for the murder?

14 A. Well, we were going to dig a hole. We got some
15 knives. The homeboys got me other different -- a new
16 pair of shoes.

17 Q. Who dug the hole?

18 A. Tuner, myself, and Guepardo.

19 Q. Where?

20 A. Well, it was in the same place, in the woods
21 behind Barcroft, again on the other side of the river.

22 Q. What happened the day of the murder?

23 A. We carried out our plan. We had our meeting and
24 then we killed him. We followed our plan and we killed
25 him.

1 Q. Who was involved?

2 A. Guepardo, Lil Slow, Solitario, Lil Payaso,
3 myself, Lil Poison, and Tuner. And Payaso was on the
4 line.

5 Q. What happened when everyone arrived in the woods?

6 A. Well, we got together, we had our meeting. We
7 told Lil Wasón that he was going to get a *calentón*.

8 Q. How did he respond?

9 A. Oh, he said, "Welcome."

10 Q. What happened next?

11 A. So, we walked down here and Lil Wasón asked me,
12 "Hey, why are we going to have our meeting down here?"

13 "Well, the homeboys said it's hot here, so,
14 that's why we're going to go down here."

15 "Okay," he said.

16 Q. What happened when he arrived to the location?

17 A. Poison started to give orders, like who was to
18 go -- who was going to start punching him, and that he
19 was going to count.

20 Q. Who counted?

21 A. Lil Poison.

22 Q. What happened after he began counting?

23 A. Well, the homeboys started to punch Lil Wasón.

24 Q. What was -- what was -- when Lil Wasón was being
25 punched, what was the position of his body?

1 A. Well, he was with his -- down on the ground, with
2 his face down on the ground, because with one punch,
3 they threw him down to the floor.

4 Q. What happened next?

5 A. Lil Poison said *trucha*. We all grabbed him.
6 Some of us grabbed him by the arms, others by the feet.
7 And then Tuner came, grabbed him by his hair and started
8 to hit him with a knife here on the neck. And then we
9 all started to stab him with our knives.

10 Q. What did you do?

11 A. Well, I had a knife which wasn't very hard. It
12 was sort of a bland knife. And I started stabbing him
13 on the back.

14 Q. What did Lil Payaso do?

15 A. He also was hitting him on the back, but he took
16 my knife and -- he started to hit him on the back, but
17 he sort of twisted the knife. And then he returned the
18 knife to me. Then we all left.

19 Q. What did Leopardo do?

20 A. He was also hitting him. But after we sort of
21 moved away, he went close to the body. He picked him by
22 the hair and started to cut off his head. And he asked
23 Solitario to come and help him.

24 Q. What did Solitario do?

25 A. Well, he was also helping to cut his head off.

1 Q. What did Lil Poison do?

2 A. Well, he brought the bag, and he also knifed him,
3 Lil Wasón. And he hold the bag so we could put the body
4 inside.

5 Q. What kind of bag?

6 A. A laundry bag.

7 Q. How many times was Lil Wasón stabbed?

8 A. Well, many, many times.

9 Q. Where?

10 A. In the neck, in the ribs, in his chest.

11 Q. What weapons were used?

12 A. Knives, and also a pickaxe.

13 Q. What happened to his head?

14 A. Well, we threw that inside the bag where the body
15 was.

16 Q. What did you do with Little Wasón's head and his
17 body after he was inside the bag?

18 A. Well, we moved him on top a little bit up here,
19 because that's where the hole was, and we put him inside
20 the hole.

21 Q. How well did he fit inside the hole?

22 A. No, he did not fit in, because his legs were kind
23 of out. So, I grabbed the pickaxe and started to hit
24 him on the -- on his knees, but I could not break his
25 legs. So, Lil Payaso came, he picked up the pickaxe and

1 he started hitting him, and he was able to break his
2 legs. And, we bent it backwards.

3 Q. Bent them onto what?

4 THE INTERPRETER: Excuse me?

5 BY MS. MARTINEZ:

6 Q. What did you bend his legs onto?

7 A. Well, the open side of the knees, to the back.

8 Q. What did you do after you had broken his legs?

9 A. Well, we started to throw soil on top of him and
10 leaves and all that.

11 Q. What else did you throw on him?

12 A. Well, rocks, and also some branches.

13 Q. What kind of rocks?

14 A. They were small, like this (indicating).

15 Q. Would you hold your hands up again.

16 A. (Complies.)

17 MS. MARTINEZ: Your Honor, may the record
18 reflect that his hands are maybe 8 to 12 inches apart?

19 THE COURT: So noted.

20 BY MS. MARTINEZ:

21 Q. Where did those rocks come from?

22 A. Well, they were there, right there, so we picked
23 them up right there.

24 Q. Who was involved in helping bury Lil Wasón?

25 A. Guepardo, Lil Slow, Tuner, me, and Lil Payaso.

1 Q. How long did it take to bury him?

2 A. Well, practically 20, 15 minutes.

3 Q. And from the -- between the location where you
4 killed him and the location where you buried him,
5 approximately how far was it?

6 A. Well, it wasn't too far. It's like from here to
7 that wood there.

8 Q. Which table? This first table next to me, or the
9 second table?

10 A. Well, like from this table to where the other
11 wooded.

12 MS. MARTINEZ: Your Honor, may the record
13 reflect, he's indicating to the end of the well of the
14 courtroom?

15 THE COURT: About 25 feet. Thank you.

16 MS. MARTINEZ: Thank you, Your Honor.

17 BY MS. MARTINEZ:

18 Q. How did you get him from the place where he was
19 killed to where the hole was?

20 A. We carried him in our arms.

21 Q. Was that difficult?

22 A. Yes. That was also uphill.

23 Q. How would you describe Lil Wasón? What did he
24 look like?

25 A. Well, he had sort of blondish hair. He was not

1 too large, like my size, like the way I look.

2 Q. Who helped carry his body to the hole?

3 A. Tuner, myself, Lil Payaso, and Lil Slow.

4 Q. Let's talk about the last murder that you pled
5 guilty to.

6 A. Okay.

7 THE COURT: Let's do that after the break.

8 You all had a break. We've not had one. So
9 we'll take a 15-minute recess at this time. Thank you.

10 (Court recessed at 11:30 a.m. and reconvened
11 at 11:48 a.m.)

12 THE COURT: Ready to bring the jury out?

13 You can bring our jury out, Mr. Toliver.

14 Thank you.

15 (Jury present.)

16 THE COURT: You may be seated. Thank you.

17 You can bring our witness out, please.

18 (Witness resumed stand.)

19 DIRECT EXAMINATION (Continued)

20 BY MS. MARTINEZ:

21 Q. I'd like to talk to you now about the last murder
22 you pled guilty to.

23 A. Okay.

24 Q. Where was that murder?

25 A. In Alexandria, in a place they call Chirilagua.

1 Q. Where were you living at the time?

2 A. Well, I was living in the house of my uncle, but
3 I would also spend time in the house of Lala.

4 Q. Who is Lala?

5 A. Well, a girl I met through the homeboys. She is
6 the sister of Chuy, Taliban.

7 Q. What neighborhood were you living in?

8 A. Well, in Chirilagua, in that neighborhood, on the
9 street they call Executive Drive.

10 Q. You mentioned someone name Chuy, Talibán. Who is
11 that?

12 A. Well, he practically -- he's a member of the
13 clique, PVLS.

14 Q. How did you meet him?

15 A. Well, I was at Lala's house when he was just
16 coming out of prison that day.

17 Q. Approximately how long before the murder was
18 that?

19 A. Well, about one week, two weeks.

20 Q. When you said that he's practically a member of
21 the clique, PVLS, what did you mean by that?

22 A. Well, he is like a *chequeo*, a *chequeo* from the
23 clique, because a homeboy, Blacky, had chased him out.

24 Q. Do you see Talibán in court today?

25 A. Yes.

1 Q. Would you please identify him by identifying a
2 please of clothing he is wearing and describing where he
3 is sitting.

4 A. Well, he's at the second table. He has like a
5 long-sleeve black shirt and a -- and he's wearing
6 glasses.

7 Q. How far over from me is he?

8 A. I couldn't estimate the distance, but it's at
9 your right.

10 Q. What do his glasses look like?

11 A. They're big ones. The color is brown like
12 coffee.

13 MS. MARTINEZ: Your Honor, may the record
14 reflect that the witness has identified Defendant Jesus
15 Alejandro Chavez as Talibán?

16 THE COURT: So noted.

17 BY MS. MARTINEZ:

18 Q. You said something about Blacky. Who is Blacky?

19 A. He's a homeboy of the Park View clique.

20 Q. What did you say about Blacky with respect to
21 Talibán?

22 A. Oh, well, they were running together inside
23 prison, and that's what he told me.

24 Q. Once Talibán got out of jail a week or two before
25 the murder, were you spending time with him?

1 A. Yes. Well, we spend time out on the street, and
2 when I was at his sister's house, too.

3 Q. What other gang members were you spending most of
4 your time with, in that week or two before the murder?

5 A. Well, there was another member from Via Satélite,
6 they call him Gatuso, and another *chequeo* from the Pinos
7 clique --

8 Q. What was his name?

9 A. Jefferson. And then Puma, Jim, Jimmy, and my
10 *paro*, Christian.

11 Q. Let's go back to Gatuso for a moment. How did
12 you know Gatuso?

13 A. Well, I met him through Facebook. Because every
14 time I went out, I saw him out there. He was always
15 wearing like blue and white and the Nike's Cortez, and
16 also a blue cap.

17 Q. What clique did he belong to?

18 A. Via Satélite.

19 MS. MARTINEZ: Your Honor, may we show the
20 witness what has been marked for identification purposes
21 as Government's Exhibit 74-A and 74-B?

22 THE COURT: Yes.

23 BY MS. MARTINEZ:

24 Q. Let's focus just on 74-A. Do you know who that
25 person is?

1 A. That's Gatuso of Via Satélite.

2 MS. MARTINEZ: Your Honor, we move in
3 Exhibit 7 -- just 74-A at this time.

4 THE COURT: 74-A will be received.

5 MS. MARTINEZ: May we publish?

6 THE COURT: Yes.

7 BY MS. MARTINEZ:

8 Q. Let's go back to talking about Talibán.

9 A. Okay.

10 Q. Do you know if Talibán has any tattoos?

11 A. Yes.

12 Q. What tattoos does he have?

13 A. He has one on his stomach, which is the emblem of
14 El Salvador. And then one on his chest that says
15 "Forgive me mother, for the tears."

16 MS. MARTINEZ: Your Honor, may we show the
17 witness what has been marked for identification purposes
18 as Government's Exhibits 72-A, 72-B, 72-C, and 72-D?

19 THE COURT: Yes.

20 BY MS. MARTINEZ:

21 Q. Please look at those four pictures. Who is it?

22 A. Talibán.

23 MS. MARTINEZ: Your Honor, the government
24 moves in -- offers into evidence,
25 Government's Exhibits 72-A, 72-B, 72-C, and 72-D.

1 THE COURT: Received.

2 MS. MARTINEZ: May we publish, Your Honor?

3 THE COURT: Yes.

4 BY MS. MARTINEZ:

5 Q. Beginning with 72-A.

6 72-B.

7 72-C, what does that say on his chest?

8 A. "Forgive me for your tears, dear mom."

9 Q. For the court reporter, may we spell it in
10 Spanish -- first let me ask, is it -- are the words on
11 his chest in Spanish or in English?

12 A. In Spanish.

13 Q. Can we spell it for the court reporter, the words
14 in Spanish?

15 A. P-e-r-d-o-n, p-o-r, t-u-s, l-a-g-r-i-m-a-s,
16 m-a-d-r-e, m-i-a. *Madre mía*.

17 Q. What does *madre mía* mean?

18 A. My mother.

19 Q. Let's go to 72-D, please. What is this?

20 A. That's the emblem of El Salvador.

21 Q. And who is in this picture?

22 A. That's Talibán's stomach.

23 Q. At the time of the murder in Chirilagua, as
24 between you and Gatuso and Talibán, who was bigger
25 physically?

1 A. Talibán.

2 Q. In the week or two before the murder, what sort
3 of things did you do with Talibán?

4 A. When we were there, you know, when we were there
5 in Chirilagua, well, you know, another day, I took him
6 to Culmore to show him the clique's sector.

7 Q. What's the clique's sector?

8 A. The place, you know, where the clique is -- has
9 got -- is seated in Culmore.

10 Q. What sort of things did you discuss with Talibán?

11 A. Well, you know, the way he talked about the way
12 he wanted the -- to be jumped into the clique, and the
13 treatment he had had on the inside.

14 Q. What do you mean by that?

15 A. They, you know, he and -- he and Talibán had been
16 walking together on the inside.

17 Q. What do you mean by "walking together"?

18 A. That they were, you know --

19 THE INTERPRETER: The interpreter needs to
20 ask for repetition.

21 THE COURT: Go ahead.

22 THE WITNESS: That Talibán and Blacky were
23 walking together on the inside, and practically, Blacky
24 was, you know, giving him schooling.

25 BY MS. MARTINEZ:

1 Q. What does it mean for a gang member to be giving
2 another schooling?

3 A. Teaching him stuff about the gang, how the gang
4 works.

5 Q. I asked you what sort of things you discussed
6 with Talibán. You said you talked about Blacky and
7 something else. I don't remember what the other thing
8 was.

9 A. They were also kind of, you know, discussing how
10 they were going to clean up the sector. The dude wanted
11 to clean up Chirilagua as well, but that wasn't our
12 sector.

13 Q. Let me first ask, when you said the dude wanted
14 to clean up the sector, what dude?

15 A. Talibán.

16 Q. The world you used was *loco*; is that right?

17 A. Yes.

18 Q. What do you mean by that?

19 A. No, it's just a name, you know, a name I could
20 call another guy, another homeboy, another person.

21 Q. When you used it just then, who were you
22 referring to?

23 A. Talibán.

24 Q. You said that Talibán wanted to clean up the
25 sector. What does it mean to clean up the sector?

1 A. Well, there were a lot of *chavalas*, you know,
2 hanging out in the sector, and we had to clean it up.

3 Q. What do you mean by "clean it up" with respect to
4 *chavalas*?

5 A. Get them out, you know. It was our sector.

6 Q. How did gang members, MS-13 gang members, get
7 *chavalas* out of their sector?

8 A. Killing them.

9 Q. With respect to *chavalas*, what, if anything, did
10 you discuss with Talibán?

11 A. You know, also, discussing the thing about coming
12 up with a plan.

13 Q. What plan?

14 THE INTERPRETER: The interpreter requests a
15 repetition.

16 THE COURT: Go ahead.

17 THE WITNESS: That we had, you know, we seen
18 another *chavala* who was living down, farther down from
19 that building, you know. He was out on the street.
20 And, we were making a plan to see how we could get him
21 out of there, get him somewhere else.

22 BY MS. MARTINEZ:

23 Q. Who was making this plan?

24 A. Me, Talibán, and Gatuso.

25 Q. What was the plan?

1 A. Well, practically, you know, the idea was if we
2 saw him anywhere, anywhere around Chirilagua, we were
3 going to kill him. Well, you know, we were throwing out
4 ideas, well, you know, throwing out ideas, but we never,
5 we never came up with a clear idea.

6 Q. Who was throwing out ideas?

7 A. The three of us.

8 Q. Who was supposed to do what?

9 A. Well, we never really got to that level, you
10 know. We were just talking about how we could do it.
11 For example, if we were going to use a car, if we were
12 put him in the car and take him somewhere else so that
13 we could kill him there; like, you know, ideas like
14 that. You got me?

15 Q. The night of the murder, where were you that
16 night?

17 A. I was at Lala's house.

18 Q. Who were you with?

19 A. Well, her, Talibán, and also, well, you know, the
20 apartment, the three of us were hanging out there, you
21 know.

22 Q. At some point did you leave Lala's apartment?

23 A. Yes.

24 Q. I don't remember if we covered this before, but
25 where is Lala's apartment?

1 A. It's in Chirilagua, on Executive.

2 Q. When you left Lala's apartment, where did you go?

3 A. Well, you know, to a neighbor who was there as
4 well. His name was Christopher. And, that's where the
5 *paro*, my *paro* was living also at the time. And, that's
6 where I went.

7 Q. Who did you go to Christopher's apartment with?

8 A. Talibán.

9 Q. What did you do at Christopher's apartment?

10 A. Well, we just went in, you know, and that's where
11 we were discussing the plan, but not the plan for the
12 death of Julio, but the 18th.

13 So, then after that, you know, we went outside
14 and we were patrolling around, you know, at the 24, a
15 store that's called 24.

16 Q. Okay. Let's go back for a minute.

17 You said not the plan for Julio, but the plan for
18 the 18th. Let's start with the 18th. What is that?
19 Who is that?

20 A. It's a victim that we were just talking about,
21 the plan I was discussing with Gatuso and Talibán who
22 lived again down there past the apartment.

23 Q. And what is 18th?

24 A. That's the name of -- that's the name of the
25 other rival gang. We call them the 18th.

1 Q. You also referred to Julio. Who is Julio?

2 A. He's the person that we killed that night, you
3 know.

4 Q. Who was at Christopher's house with you and
5 Talibán that night?

6 A. Jefferson, Gatuso, my *paro*, Christian, Puma, and
7 Christopher. We were all there.

8 Q. You said that you went out to patrol?

9 A. Yes.

10 Q. What does "to patrol" mean?

11 A. Well, you know, to walk around the field and to
12 make sure that there were no *chavalas* in that area of
13 Chirilagua. But when we didn't see anyone around, then
14 we went to the 24th.

15 Q. Who went out to patrol that night?

16 A. Me, Talibán, Gatuso, Jefferson, Christian and
17 Puma.

18 Q. What is the 24?

19 A. It's a store. That's how it's called, the 24.

20 Q. Where is it?

21 A. It's on Mount Vernon, also in Chirilagua.

22 Q. Do you know someone name Sixto?

23 A. Yes.

24 Q. Who is Sixto?

25 A. He told me he was a *chequeo* of the Guanacos. But

1 then after time, I realized he was running around with
2 the Pinos.

3 Q. How do you know him?

4 A. I met him through the dudes with the Pinos as
5 well.

6 Q. All right. You said that night you went to the
7 24. What happened after that?

8 A. Well, Talibán and I went there to the 24 store.
9 The other dudes stayed back on the street. And at some
10 point, a girl showed up. Her name is Veronica. And I
11 introduced her to Talibán, and I presented Talibán to
12 her.

13 Q. Before we continue, when you went out that night
14 to patrol, do you know whether anyone had any weapons?

15 A. I only knew that Gatuso had a knife. And, the
16 *paro*, Christian also had a knife. But as far as the
17 others, I didn't know anything.

18 Q. After you introduced this girl to Talibán, what
19 happened?

20 A. I left them there at the 24, and I went where the
21 dudes were, where Gatuso and Jefferson were.

22 Q. And again, what word did you use to refer to
23 them?

24 A. *Locos*. It's the same word. I just keep
25 repeating it.

1 Q. That's good, but we have a translation. I wanted
2 to get the Spanish word on the record. That's why I
3 asked. Would you spell *locos*?

4 A. L-o-c-o.

5 Q. After you went back over to the other *locos*, what
6 happened?

7 A. Then we were walking around near a restaurant
8 called Lillian. And we were just walking around there.
9 And then we saw a car arrive at that time. And some
10 dudes, some people that were in that car, got out of the
11 car. And they was a big heavysset guy there who had on a
12 T-shirt with the 18 on it.

13 Q. What was the significance to you of a T-shirt
14 that said 18 on it?

15 A. Well, our idea was, you know, he was, he was
16 representing another gang, the 18th.

17 Q. Who were you with when you saw this person?

18 A. Sixto, Jefferson, Gatuso, Puma, and Christian.

19 Q. Where was Talibán?

20 A. He was with the girl at the 24, I think, at that
21 time.

22 Q. What did you do after you saw the guy with the 18
23 on his street -- on his -- excuse me -- on his shirt?

24 A. Well, we went up to them and I said,
25 "Hey, what's the problem? This is Mara Salvatrucha."

1 And I threw the gang sign. I threw it like this
2 (indicating).

3 Q. Would you hold that up and show the jury?

4 A. (Indicating.)

5 MS. MARTINEZ: Your Honor, may the record
6 reflect with his right hand, he's holding up his index
7 and pinky finger, and thumb over the bent fingers. And
8 with the left hand, he has his index and the middle
9 fingers up together, his other fingers bent and his
10 thumb out.

11 THE COURT: So noted.

12 BY MS. MARTINEZ:

13 Q. What does that mean?

14 A. MS.

15 Q. Why did you do that?

16 A. So that they would know what it was, and what we
17 were representing.

18 Q. What happened next?

19 A. So, I said to them, "Hey, what up? What up?
20 What the fuck? This is the Mara Salvatrucha."

21 But, you know, they didn't do anything. They got
22 back in the car and they left and they went towards the
23 house.

24 Q. What happened after that?

25 A. Well, Jefferson went with me and we crossed the

1 street again, and we saw that there were two people
2 walking towards us. And he said, "Hey, look, homeboy,
3 that son of a bitch is another *chavala*."

4 Q. Go ahead.

5 A. Said, *Sí mon* --

6 THE INTERPRETER: One moment. May the
7 interpreter consult?

8 "Oh, yeah. Oh yeah, man."

9 The interpreter corrects: "Oh, yeah."

10 THE WITNESS: So, then the two people who
11 were walking approached us, and Jefferson said, "Hey
12 homeboy, throw him the sign."

13 BY MS. MARTINEZ:

14 Q. At this point, where was Gatuso?

15 A. Gatuso was heading our way at that time. He was
16 crossing the street.

17 Q. Where was Sixto?

18 A. He was with Puma and the other dude, on the other
19 side.

20 Q. Where was Talibán?

21 A. He was still at the 24 with the girl.

22 Q. What happened as these other two people
23 approached you?

24 A. Well, Jefferson told me to throw the gang sign.
25 And I said, "No, man, you throw it. That's not a

1 *chavala.*"

2 He said, "What up, man? The Mara, the gang."

3 And they responded, "Oh, you want problems?"

4 And that's about the time Gatuso got there.

5 THE INTERPRETER: The interpreter requests a
6 repetition.

7 THE COURT: Go ahead.

8 THE INTERPRETER: Your Honor, may the Court
9 instruct the witness just to slow down a tad for the
10 interpreter?

11 THE COURT: You could ask him to do that,
12 but I want him to testify naturally, if you don't mind.
13 If you can't do it --

14 THE INTERPRETER: Do it to the best of her
15 ability, Your Honor.

16 THE COURT: If you're uncomfortable, maybe
17 another interpreter could take over.

18 THE INTERPRETER: Sure.

19 THE COURT: That may be another thing to do.

20 THE WITNESS: And he said, Gatuso said, "Oh,
21 what the hell, you guys are going to bring your gang
22 full of rabbits."

23 BY MS. MARTINEZ:

24 Q. All right. At this point, where were you?

25 A. Well, I was there on Mount Vernon in front of the

1 restaurant, Lillian.

2 Q. What -- what does "gang of rabbits" mean?

3 A. A group of persons that are nothing.

4 Q. After Gatuso said that, what happened?

5 A. The guys who were there said, "Oh, okay. Wait
6 for us here." And they left, running.

7 And Jefferson said, "Oh, these guys are going to
8 go and get the police. Let's grab them."

9 Q. What did you do?

10 A. Well, I ran after them.

11 Q. What did Gatuso do?

12 A. Well, he came running behind me.

13 Q. Where was Sixto?

14 A. He was right there.

15 Q. Where was Talibán?

16 A. Well, at that time, he was walking out of the 24.
17 And he saw us running, so he started to run behind us.
18 But, those other two guys got into an apartment.

19 Q. What happened after the two guys you were chasing
20 made it into an apartment?

21 A. The Talibán got where I was standing. He asked
22 me, "Hey, what happened, homeboy?"

23 Well, then I said, "Hey, there were some guys
24 there supposedly *chavalas* who were walking here."

25 "Oh, all right."

1 So, we continued walking. There were of couple
2 of drunk people out there on the streets.

3 Q. At this moment, who were you with?

4 A. I was walking with Talibán, and Gatuso with
5 Sixto, they were walking behind me.

6 Q. Where did the four of you go?

7 A. Well, we were walking towards Russell Road, up
8 there, and the Talibán then asked, "Hey, cousins, have
9 you seen some of my cousins that were running like up
10 street?"

11 And they said, "Nah, we haven't seen anybody."

12 Then he said, "Let's go look for them."

13 "All right," I said.

14 "Now we can do that, homeboy."

15 Q. Hold on. Who said "now we can do that"?

16 A. Well, what he said, "I know what we're going to
17 do, homeboy."

18 Q. Who said, "I know what we're going to do,
19 homeboy"?

20 A. Talibán.

21 Q. What happened after Talibán said, "I know what
22 we're going to do"?

23 A. Well, we continued. Then we got to an apartment
24 there by Executive.

25 Q. What happened when you arrived at the apartment?

1 A. Talibán went upstairs. He got into an apartment.
2 Gatuso, Sixto and myself, we stayed downstairs. And so,
3 we stayed there waiting.

4 Q. Approximately how long did you wait?

5 A. Well, about ten minutes.

6 Q. What happened then?

7 A. Well, Talibán came down and we continued walking.

8 Q. Once Talibán came down, what, if anything, did he
9 say?

10 A. Well, now, we continued walking, and then he
11 showed me that he had a pistol. And he said then,
12 "Look, homeboy, this is what we are going to use."

13 Q. What was Talibán wearing when he showed you the
14 pistol?

15 A. Well, what do you mean? I don't understand.

16 Q. Do you remember any items of clothing that
17 Talibán was wearing when he showed you the pistol?

18 A. Well, a black shirt. Well, that, I remember, a
19 black shirt, and he had slacks on.

20 Q. What direction were you -- were the four of you
21 walking when he showed you the pistol?

22 A. Well, we were walking down Executive. Then we
23 crossed Russell. So, we went down the street.

24 Q. When he showed you the pistol, where were you?

25 A. We were walking between Executive and Russell.

1 Q. Where was Gatuso when he showed the pistol?

2 A. Oh, they were behind me.

3 Q. Where was Sixto?

4 A. He was walking together with Gatuso.

5 Q. Where did Talibán have the gun?

6 A. He had it hidden under his shirt.

7 Q. How did he show it to you?

8 A. Well, he took it out and showed it to me and he
9 said, "This is what we're going to use."

10 Q. What -- what did you say he was wearing?

11 MR. AQUINO: Objection, asked and answered,
12 Judge.

13 THE COURT: Overruled.

14 BY MS. MARTINEZ:

15 Q. What did you say he was wearing?

16 A. A black shirt.

17 Q. After he showed you the gun under his shirt,
18 where did you go?

19 A. We went towards the building where those two
20 other guys had gotten into.

21 Q. Who was with you at the time?

22 A. Talibán, Gatuso, and Sixto.

23 Q. As you continued towards the last place you'd
24 seen those two people, what happened?

25 A. Well, outside the building, there were a group of

1 persons.

2 Q. What did you do?

3 A. Well, I told them, "Hey, look here, the guys are
4 out there."

5 Q. Who did you tell that to?

6 A. Talibán, Sixto and Gatuso.

7 Q. What happened next?

8 A. We got to where they were --

9 Q. All four of you?

10 THE INTERPRETER: Excuse me?

11 BY MS. MARTINEZ:

12 Q. All four of you?

13 A. Three of us, Talibán, Gatuso and myself. Sixto
14 stayed behind, because Talibán told him to stay behind.

15 Q. What did Talibán say to Sixto?

16 A. To stay behind or go home, because three of us,
17 we were -- it was enough.

18 Q. What was Sixto's level in the gang at the time?

19 A. He was a *paro* from Pinos.

20 Q. Do you know why Talibán told him to leave?

21 MR. AQUINO: Objection, calls for
22 speculation.

23 THE COURT: Sustained.

24

25 BY MS. MARTINEZ:

1 Q. What happened after Talibán told the *paro*, Sixto,
2 to leave?

3 A. Well, Sixto stayed behind.

4 Q. What did the three of you, you, Gatuso and
5 Talibán, do?

6 A. Well, we got to where the group of them were.
7 Gatuso went ahead of me, and he told them, "Hey, what's
8 up, you sons of bitches? This is the Mara Salvatrucha."

9 And Julio, who was in the front, he said, "Hey,
10 why -- why do you want to fight?"

11 Q. Where was Talibán?

12 A. He was right behind me.

13 Q. What happened next?

14 A. Gatuso had a knife under his shirt. He had his
15 hand also under his shirt. And he faced, like, face to
16 face with Julio.

17 Q. Were there other people there, too, in addition
18 to you, Talibán, Gatuso, and Julio?

19 A. Well, they were about seven, and I'm including
20 the two other persons that we were following.

21 Q. When you say "they," do you mean the group with
22 Julio?

23 A. Yes. But, the two persons that we were
24 following, they were like behind them.

25 Q. What happened after Gatuso and Julio confronted

1 each other?

2 A. Well, he said, "You are not even of the Mara,"
3 and then he started to insult Gatuso, and he told him,
4 "Well, give me a rule of the Mara. Tell me."

5 And Gatuso continued insulting him, and Julio,
6 too.

7 Then, I couldn't stand that any more, and I
8 punched Julio in the face.

9 Q. What happened after you punched Julio in the
10 face?

11 A. There was another guy besides Julio, and I went
12 to fight him, too.

13 Q. And what happened?

14 A. At that moment, when I was fighting with this
15 dude, you know, I went to a side, and I saw Talibán
16 pointing the gun like this (indicating).

17 Q. Like what? Would you show the jury again?

18 A. (Indicating.)

19 MS. MARTINEZ: Your Honor, may the record
20 reflect that the witness has his hands together with --
21 his fist together with a finger pointing out, and his
22 arms held straight in front of him?

23 THE COURT: So noted.

24 THE WITNESS: And that's when I saw that he
25 fired the gun.

1 And I felt like he was pushing me forward,
2 so I moved to the side. And I saw Julio, and he had
3 blood on his back.

4 And I told Talibán, "Hey, are you going to
5 hit me?"

6 "No," he said. "Don't be stupid. Come on.
7 Let's run."

8 BY MS. MARTINEZ:

9 Q. What did you do?

10 A. Well, we left, running.

11 Q. Who did you leave with?

12 A. And so, I was running with Talibán. And Gatuso
13 said, "I have no place to go to." So, he started
14 running on Executive, down Executive.

15 Q. Who started running down Executive?

16 A. Gatuso.

17 Q. What did you and Talibán do?

18 A. And we went uphill.

19 Q. Where did you go?

20 A. We got to the apartment where he want -- where he
21 went to get the gun. So, we went upstairs, and he gave
22 back the pistol to the boy. He was a friend of his,
23 they called him the Mickey Mouse or Slick. That's when
24 I realized that he had lend the weapon to Talibán.

25 Q. What did you do after Talibán returned the gun to

1 this person in the apartment?

2 A. Well, he got sort of taken aback when he saw
3 Talibán, and he said, "What's with this guy?" And he
4 sort of -- I have had problems with him before, like
5 what was I doing there.

6 Q. You had had problems with who before?

7 A. Well, with this Slick, or Mickey Mouse.

8 Q. So what happened next?

9 A. So he gave back the gun, and --

10 MS. AMATO: Objection.

11 THE COURT: There was no statement. It was
12 what he did.

13 MS. AMATO: Okay. But I was just
14 overhearing the witness.

15 THE COURT: Are you listening in Spanish or
16 listening in English?

17 MS. AMATO: Well --

18 THE COURT: I couldn't hear you.

19 MS. AMATO: Yes, I'm listening to both.

20 THE COURT: Well, we're going to follow what
21 the interpreter is saying.

22 Go ahead.

23 BY MS. MARTINEZ:

24 Q. I think that we were at the point where Talibán
25 had given the gun back to this guy Mickey Mouse or

1 Slick. What happened after Talibán gave him the gun
2 back?

3 A. Well, Slick -- he gave back the gun, and Slick
4 tried to take it apart. And he said, "What have you" --

5 MS. AMATO: Objection --

6 MR. AQUINO: Objection, Judge --

7 MS. MARTINEZ: Your Honor, it's a question.
8 It's not offered for the truth. It's offered as
9 foundation for the response by Talibán.

10 THE COURT: All right. I sustain the
11 objection.

12 BY MS. MARTINEZ:

13 Q. What did Talibán say?

14 A. Well, "We did something there." But he said,
15 "That wasn't good. Because I only was able to fire one
16 shot, and I wanted to fire more. But the gun wasn't
17 good."

18 Q. What happened next?

19 A. And I told Talibán, "Ask him to get me a shirt."
20 Because I had a white shirt, but it was torn, torn
21 because I had -- because of the fight that I had
22 earlier. And because it was white, it was going to call
23 the attention. So I wanted to change it. But, he
24 brought me another white shirt.

25 Q. How long did you and Talibán stay in the

1 apartment?

2 A. Seven, ten minutes.

3 Q. What did you do after that?

4 A. Well, we came downstairs and we were running.

5 Q. Where were you running?

6 A. Well, we went -- we were running on Executive,
7 upwards, and, until we got to a wooden area. We were
8 running and we were leaving behind houses, patios.

9 Q. What did you do when you got to the wooded area?

10 A. Well, while we were running, he gave me some
11 gloves, and he said, "Here, throw this away."

12 Q. What gloves?

13 A. Well, it was a pair of gloves that he told me to
14 throw away.

15 Q. Had you seen the gloves before that moment?

16 A. Well, he had them on when he fired the gun.

17 Q. What did these gloves look like?

18 A. Well, they were a pair of black gloves.

19 Q. What did you do with the black gloves?

20 A. Well, I put them into my pocket. And I was
21 running with the telephone in my hand. And at that
22 moment, I broke the telephone.

23 And he asked me, "What are you doing?"

24 And I said, "No, I'm breaking this phone, because
25 with this, they can keep track of us."

1 Q. Who can keep track of you?

2 A. The police.

3 Q. What did you do after you broke your phone?

4 A. Well, we continued running and we got to a place.

5 Q. What place?

6 A. It was like within the same forest, also a
7 forested area.

8 Q. What did you do at that place in the forested
9 area?

10 A. He asked me about the gloves then.

11 And I told him, "I have them here, dude."

12 And he said, "Didn't you throw them away?"

13 And I said, "I did not find a sewage -- inlet to
14 throw them into."

15 And he said, "There is one over there. Go over
16 there and throw them away."

17 And I went to it. And we continued running. And
18 then we got to a place to rest.

19 Q. What did you do at the place where you rested?

20 A. Then, I told him, "Let's wait here for the -- for
21 things to calm down, for the waters to subside."

22 Q. What did you do while you waited for things to
23 calm down?

24 THE INTERPRETER: The interpreter is asking
25 for a repetition.

1 THE WITNESS: He said, "Homeboy, I only hit
2 him once in the head."

3 And I say, "Yeah."

4 And, "I told you, homeboy, that what I
5 wanted was to feed the beast."

6 BY MS. MARTINEZ:

7 Q. Who said, "What I wanted was to feed the beast"?

8 A. Talibán.

9 Q. What does "feed the beast" mean within MS-13?

10 A. Well, the beast basically is the devil. When you
11 were involved in this, basically, you feel that the
12 devil is helping you, and sometimes the devil asked you
13 to do things for him.

14 Q. What happened after Talibán said that he wanted
15 to feed the beast?

16 A. He said, "Let's pray, homeboy. So, I have
17 already fed the beast. Now we have to pray to the beast
18 so that we will not be caught."

19 Q. How did you pray to the beast?

20 A. So, he made a sign of the beast like this, the
21 claw, and I did the same thing, and we joined our hands
22 together, in this manner.

23 MS. MARTINEZ: Your Honor, may --

24
25 BY MS. MARTINEZ:

1 Q. Would you hold that up again?

2 A. (Indicating.)

3 MS. MARTINEZ: May the record reflect that
4 the witness is holding his arms and fists together, with
5 his knuckles pointed out and his two index fingers
6 extended to either side.

7 THE COURT: So noted.

8 BY MS. MARTINEZ:

9 Q. What does that mean?

10 A. This is the claw. It is a way also of praying to
11 the beast.

12 Q. You said you put your foreheads together?

13 A. No, we joined our hands while we were holding
14 it -- holding them in this manner.

15 Q. And then what did you do?

16 A. So, we were there, just waiting for a while.
17 And, he said to me, "Hey, homeboy, if things get -- go
18 the wrong way, please do not snitch on me. If we go to
19 jail, do not snitch on me. Now I want --"

20 Q. How did you respond when he said, "Don't snitch
21 on me"?

22 A. And I said, "Of course not. Why do you think I
23 would do that? You're offending me."

24 Q. How did that turn out?

25 A. He said, "Okay."

1 And I told him, "Homeboy, I have nowhere to go."

2 And he told me, "I had been told that Blanca
3 lives nearby."

4 And I told him, "Oh, yeah, I know where she
5 lives."

6 Q. Who is Blanca?

7 A. That was a friend of the gang and she was the
8 brother (sic) of Talibán's.

9 Q. So where did you guys go?

10 THE INTERPRETER: I'm sorry.

11 Sorry. "She was a friend of Lala," not the
12 gang. "She was a friend of Lala, who is the sister of
13 Talibán."

14 BY MS. MARTINEZ:

15 Q. After Talibán brought up Blanca, where did you
16 go?

17 A. So, we left. We had mentioned that we were going
18 to go there, and we went to Blanca's house.

19 Q. How long did you stay at Blanca's house?

20 A. About an hour.

21 Q. What happened after that?

22 A. So, we went there and I knocked on the door, and
23 her father came out. And I said, "Um, excuse me, is
24 Blanca in?"

25 And he said, "Yes, she's here."

1 And I asked him, "Could you call her?"

2 Q. Approximately what time was it?

3 A. It was between 11:00 and 12:00 at night.

4 Q. Did you stay in Blanca's house for sometime that
5 night?

6 A. Yes, we stayed there.

7 Q. For how long?

8 A. About an hour.

9 Q. Where did you go after Blanca's house?

10 A. To the house of Talibán's mother.

11 Q. Were you still with Talibán?

12 A. Yes.

13 Q. Why did you go to Talibán's mother's house?

14 A. Because Talibán wanted to get it on with Blanca.

15 And I said, "We better go," and -- and I said, "Let's
16 go, homeboy."

17 When he realized that Blanca was not going to be
18 game, he said, "Well, we have nothing to do here. We
19 better go to my mother's house."

20 Q. Where is Talibán's mother's house?

21 A. At that time, it was on Duke Street.

22 Q. In what city?

23 A. Alexandria.

24 Q. How long did you stay at Talibán's mom's house?

25 A. I think we stayed there for about a week or two

1 weeks.

2 Q. What did you do in the days after the murder?

3 A. We were here at Talibán's mother's house. And
4 the other days, we went to work. I went to work with
5 Talibán to Baltimore, just waiting for time to pass by.

6 Q. Who were you with?

7 A. I was with Talibán and, I think it was his
8 stepfather.

9 Q. After the night of the murder, did you see Gatuso
10 again?

11 A. No. I was only texting them with the phone.

12 Q. In the days after the murder, do you recall
13 talking to people on the phone?

14 THE INTERPRETER: Do you recall --

15 BY MS. MARTINEZ:

16 Q. Do you recall talking to people on the phone?

17 A. Yes. I was calling homeboys in New York and
18 Maryland, asking them to help me, to give me a hand.
19 But, they say, "Well, guy, you know, we are fucked up
20 now."

21 MR. AQUINO: Objection as to hearsay.

22 THE COURT: Sustained to what they said.

23 BY MS. MARTINEZ:

24 Q. Do you recall listening -- during trial
25 preparation, do you recall listening to two recorded

1 phone calls?

2 A. Yes.

3 Q. Were you able to recognize the voices in these
4 two recorded phone calls?

5 A. Yes.

6 MS. MARTINEZ: Your Honor, the government
7 request permission to play what has already been
8 admitted as Government's Exhibit 21-A. The full call is
9 a little over 17 minutes. We ask to play the first,
10 over six minutes. And we can starting at the beginning.
11 And the jury, if they wish to, can follow along in the
12 transcript.

13 THE COURT: 21-A-1?

14 MS. MARTINEZ: 21-A is the recording.
15 21-A-1 is the transcript.

16 THE COURT: All right.

17 BY MS. MARTINEZ:

18 Q. Mr. Del Cid, we're going to play a Spanish
19 language recording. There's a transcript in English
20 that the jury and other people will look at. You can
21 ignore that. I just want you to listen.

22 A. Okay.

23 Q. Once we get through the recording, I will ask you
24 questions about the recording. Okay?

25 A. That's good.

1 THE COURT: How many pages are you going to
2 play?

3 MS. MARTINEZ: Your Honor, it will go
4 through the middle of -- from the beginning to the
5 middle of page five. And it will take approximately six
6 minutes and fourteen seconds.

7 THE COURT: All right. Thank you.

8 (Audio played.)

9 BY MS. MARTINEZ:

10 Q. Were you able to recognize voices in that
11 recording?

12 A. Yes.

13 Q. At the very beginning after the phone rang, who
14 answered the phone?

15 A. Lala.

16 Q. After that, who was speaking on the rest of the
17 recording?

18 A. Myself and Junior from the Silvas.

19 Q. Where were you?

20 A. At the house of Talibán's mother.

21 Q. Generally speaking, what were you and Junior
22 talking about during this phone call?

23 A. About the killing that we had perpetrated there
24 in Chirilagua.

25 Q. Who were you talking about being involved in the

1 murder with you?

2 A. Talibán.

3 Q. Whose tattoos did you describe?

4 A. Those that Talibán has.

5 MS. MARTINEZ: Your Honor, I have another
6 recording now. It's about two minutes and
7 twenty seconds.

8 THE COURT: We'll start with that right
9 after lunch.

10 MS. MARTINEZ: Thank you, Your Honor.

11 THE COURT: Ladies and gentlemen, please do
12 not discuss the case. Don't permit the case to be
13 discussed in your presence. Don't do any research on
14 the case. Leave your notes in the jury deliberation
15 room.

16 Remember, if you see people from the
17 courtroom who are on the elevator with you, they're not
18 being rude. They've been told not to have any contact
19 with you.

20 We'll resume at 2:00 o'clock. Thank you.

21 (Court recessed at 1:01 p.m. and reconvened
22 at 2:06 p.m.)

23 THE COURT: Before we bring the jury back, I
24 want to have the record supplemented by, additionally,
25 interpretation by Ms. Blumberg. She brought to my

1 attention a change she wants to make in the
2 transcription from yesterday. I want to do that in the
3 presence of the jury.

4 You can bring our jurors out.

5 (Jury present.)

6 THE COURT: You may be seated.

7 Ladies and gentlemen, it's come to my
8 attention that there is a need to supplement the
9 interpretation received yesterday from Ms. Shelly
10 Blumberg. And she is going to tell us the observation
11 she made about the interpretation she made in court
12 today.

13 THE INTERPRETER: Yes. Yesterday, the
14 witness referred to something being done every *quince*
15 *dias*. And I interpreted it at least once as two weeks,
16 which is how we say it in English.

17 But my colleague kindly advised me that at
18 one point, I inadvertently said "15 months," which was
19 incorrect. It's actually two weeks, or 15 days.

20 That's one.

21 THE COURT: Okay.

22 THE INTERPRETER: And the other one a
23 mention of where a meeting was held, in *al cantarillado*,
24 a-l, c-a-n-t-a-r-i-l-l-a-d-o, And I said, "pipe," the
25 first word that came to me, but it's actually a drainage

1 area.

2 THE COURT: So you're saying that the
3 meeting was held in a drainage area.

4 THE INTERPRETER: A drainage area.

5 THE COURT: And, do you recall what the
6 15 days related to?

7 THE INTERPRETER: It had to do with how
8 often the meetings were held, I believe.

9 THE INTERPRETER: Could the interpreter
10 approach?

11 THE COURT: Yes.

12 (Interpreters conferring.)

13 THE INTERPRETER: Oh, okay.

14 My colleague has advised me that the witness
15 said, when the reference was made as to how often the
16 dues were collected, I said every month, mishearing.
17 And he's telling me now that the witness actually said,
18 *cada vez*, every time. I guess I misunderstood the
19 correction.

20 THE COURT: All right.

21 Do either counsel have any questions of
22 Ms. Blumberg?

23 MS. MARTINEZ: No, Your Honor.

24 THE COURT: All right. Thank you.

25 Thank you, Ms. Blumberg. Thank you very

1 much.

2 You can bring our witness back out.

3 (Witness resumed stand.)

4 DIRECT EXAMINATION (Continued)

5 BY MS. MARTINEZ:

6 Q. Good afternoon.

7 MS. MARTINEZ: Your Honor, with the Court's
8 permission, I'd like to play now the recording that is
9 already entered as Government's Exhibit 22-A. I'd like
10 to play the first, starting at the very beginning, the
11 first two minutes and twenty seconds. And if anyone is
12 following along in the transcript, that should go
13 through about the middle of page three. The transcript
14 is Government's Exhibit 22-A-1.

15 THE COURT: And it starts at page one?

16 MS. MARTINEZ: At page one, at the very
17 beginning. And the total length of this recording is a
18 little over 11 minutes. For the purposes of voice
19 identifications and the relevant portions, it's our
20 position that we only need to listen to about the first
21 two minutes and 20 seconds.

22 And Mr. Del Cid, we're going to play another
23 Spanish recording. There's going to be an English
24 transcript on the screen. You can go ahead and ignore
25 that. Just listen to the recording in Spanish, and then

1 I'll ask you some questions. Okay?

2 (Audio played.)

3 BY MS. MARTINEZ:

4 Q. Mr. Del Cid, do you recognize the voices that you
5 just heard?

6 A. Yes.

7 Q. Who was speaking in this recording?

8 A. Junior from Silva, Talibán from Park View, and
9 Lil Payaso from Park View, and myself.

10 Q. Where were you during this recording?

11 A. At Talibán's mom's house.

12 Q. Who were you with?

13 A. I was with Talibán and Lala.

14 Q. What was the general topic of conversation during
15 this excerpt of the recording that we listened to?

16 A. Well, about the hit that Talibán had done.

17 Q. What does "photo" mean in this recording?

18 A. "Photo," well, it's a reference to the situation
19 that had just happened during those days.

20 Q. Who talked about the photo?

21 A. Talibán.

22 Q. How is it a reference to -- well, first of all,
23 what situation are you referring to?

24 A. To the situation that he had done, killing Julio.

25 Q. How does "photo" refer to killing Julio Urrutia?

1 A. Well, practically, you know, that's kind of how
2 we like to refer to a thing when somebody saw what I
3 did, and, practically, that's the way I referred to it.

4 Q. You said Lil Payaso was on the phone?

5 A. Yes.

6 Q. What was Lil Payaso's role in PVLS at the time of
7 this recording?

8 A. Could you repeat the question.

9 Q. What was Lil Payaso's role or level in the
10 clique, PVLS, at that time?

11 A. At that time, he had the first word, because all
12 the rest were in jail.

13 Q. At some point after this recording, were you
14 arrested?

15 A. Yes.

16 Q. Where were you arrested?

17 A. Here, in Alexandria, in Talibán's mom's house.

18 Q. Who were you with when you were arrested?

19 A. With Talibán and his sister, Lala.

20 MS. MARTINEZ: Your Honor, I have no further
21 questions.

22 I'd ask at this time, however, to read a
23 stipulation that's been entered -- has been signed by
24 all the parties.

25 THE COURT: Okay.

1 MS. MARTINEZ: The stipulation has been
2 marked as Government's Exhibit 171. The stipulation
3 reads: "The United States of America and the
4 defendants, by and through undersigned counsel, hereby
5 stipulate and agree as follows:

6 "Prior to June 19th, 2014, Jesus Alejandro
7 Chavez was convicted of a felony, that is, crime
8 punishable by imprisonment for a term exceeding one
9 year. Jesus Alejandro Chavez was incarcerated from on
10 or about January 1st, 2009, through on or about
11 June 11th, 2014."

12 Your Honor, the government would offer the
13 stipulation, Government's Exhibit 171, into evidence as
14 well.

15 THE COURT: Received.

16 You may proceed.

17 MR. LEIVA: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. LEIVA:

20 Q. Good afternoon, Mr. Del Cid.

21 A. Good afternoon.

22 Q. Mr. Del Cid, before you were called to testify
23 yesterday, when is the last time that you met with any
24 prosecutor or any government official or government
25 agent?

1 A. In March.

2 Q. March of this year, 2016?

3 A. Yes.

4 Q. Okay. Do you recall when in March?

5 Toward the beginning of the March, toward the
6 middle of March, or toward the end of March?

7 A. At the beginning.

8 Q. Okay. And prior to testifying here today, did
9 you review any documents?

10 A. No.

11 Q. So, Mr. Del Cid, let's start with the cooperation
12 that you have with the government. Okay?

13 A. Okay.

14 Q. You pled guilty to two murders; is that correct?

15 A. Yes.

16 Q. And, before you pled guilty, you had entered into
17 a cooperation agreement with the government; is that
18 correct?

19 A. Yes.

20 Q. So, you knew that you -- when you were pleading
21 guilty to those two murders, you were going to be
22 sentenced to life on each murder; is that fair to say?

23 A. Yes.

24 Q. But you also knew that because you had entered a
25 cooperation agreement with the government, that your

1 sentence would be less than life?

2 A. To the date, I wasn't sure of that.

3 Q. But before you physically came into a courtroom
4 and pled guilty in front of a judge, you had already
5 signed a cooperation agreement with the government?

6 A. Yes.

7 Q. And, you were told that your reduction in
8 sentence would be based on your level of cooperation?

9 A. That's correct.

10 Q. And, you were also told that the highest level of
11 cooperation that you can give is to actually come in
12 court and testify?

13 A. That's correct.

14 Q. And, I'm assuming that before you agreed to come
15 to court and plead guilty to two life sentences, you had
16 asked what type of reduction do people in your situation
17 normally get.

18 A. No, frankly, I didn't ask.

19 Q. Well, let me ask you this, then: What kind of
20 reduction are you expecting as a result of testifying?

21 A. Well, as for me, I expect that, this reduction.

22 Q. You're expecting to get out about 15 or 20 years?

23 A. Well, I hope. I hope to get out, the time the
24 judge gives me. Well, I don't have a time, that I'm
25 going to get 30 or 20 or 40.

1 Q. But, you don't strike me as the kind of person,
2 Mr. Del Cid, that is going to go in and do something
3 like this without asking the right questions.

4 A. Well, I did it hoping to get the reduction, but I
5 didn't ask questions about how much time I was going to
6 get or something like that.

7 Q. You're 20 years old, right?

8 A. That's correct.

9 Q. So, what you're telling us, as a 20-year-old, you
10 just walked into court and said, "Yes, I'm going to
11 plead guilty to two life sentences," without having any
12 idea what kind of reduction you would receive in return
13 for your cooperation?

14 A. Well, but, of course, I do have an idea of how
15 much reduction I can get. But I repeat, you know, I
16 didn't have an idea of how much reduction I would get.

17 Q. We understand that the judge is going to
18 determine how much of a reduction. All right?

19 Now, you said that you had an idea of what kind
20 of reduction you would get. I'm assuming that you asked
21 people in the know what kind of reduction you would get?

22 A. Exactly, but, not all cases are the same.

23 Q. And the people in the know who had these
24 discussions with you, told you that you're maybe looking
25 at 20 years, right?

1 A. No. The people I asked told me that every case
2 is different. They couldn't tell me, "You're going to
3 get this or that," because every case is different.

4 Q. So, you just don't want to answer my question.

5 MS. MARTINEZ: Objection, Your Honor.

6 THE COURT: Sustained. Argumentative.

7 BY MR. LEIVA:

8 Q. So, Ms. Martinez had asked you on direct that
9 your contract with the government is that you tell the
10 truth.

11 A. That's correct.

12 Q. You were also told that the government, meaning
13 the prosecutors, determine whether you're telling the
14 truth.

15 A. Yeah, of course, well, I telling the truth. And
16 they know that I was telling the truth because of the
17 evidence they have.

18 Q. So, let me back up. You were told that before a
19 judge can even consider giving you a reduction, the
20 prosecutors have to file a motion asking that the judge
21 to give you a reduction. Is that correct?

22 A. Correct.

23 Q. So, the government decides whether you're being
24 truthful or not before it even gets in front of the
25 judge?

1 A. Yes.

2 Q. And, of course, you're smart enough to know that
3 if you provide information which helps exonerate any of
4 these young men, then the government won't go to bat for
5 you and ask for a reduction in sentence?

6 A. Correct.

7 Q. In other words, the truth that the government is
8 seeking from you is for information to help convict
9 these young men?

10 A. Correct. They are looking for the truth as how
11 things happened.

12 Q. And, you've also been placed in the Witness
13 Protection Program; is that correct?

14 A. Yes.

15 Q. Okay. And, you've been told that whatever jail
16 sentence you ultimately receive will be in a special
17 prison for people who have cooperated with the
18 government?

19 A. That's correct.

20 Q. So, you'll be in a prison with other people who
21 are cooperators, who are looking to get out as soon as
22 possible?

23 A. That's correct.

24 Q. You're going to be in a prison where people are
25 all on good behavior, right?

1 A. Correct.

2 Q. So, I'm sure that makes you feel good and safe,
3 right?

4 A. Yes, in a way.

5 Q. You're not going to be doing hard time?

6 A. No.

7 Q. So, let's talk about some of the bad acts that
8 you've committed, before we get into what you say you
9 know about the facts of this case.

10 A. Okay.

11 Q. You testified that at a young age you assisted
12 your homeboys in killing a delivery truck driver in El
13 Salvador, right?

14 A. Correct.

15 Q. Then you participated in another murder where a
16 young man was tied to a tree, right?

17 A. That's correct.

18 Q. And I believe what you told the members of the
19 jury was that you hit him a couple of times with a
20 machete?

21 A. That's correct.

22 Q. But you did more than that, didn't you, Mr. Del
23 Cid?

24 A. Of course not. I just did what the homeboys told
25 me to do.

1 Q. You chopped his limbs off, did you not?

2 A. That's correct.

3 Q. You cut one arm off with the machete?

4 A. Both arms.

5 Q. And, you watched him as he bled out, right?

6 A. Correct.

7 Q. And then you cut him up into pieces, right?

8 A. With the other homeboys, too.

9 Q. I'm focusing on you right now. I know you want
10 to place the blame somebody else, but I'm asking you.

11 MS. MARTINEZ: Objection, Your Honor,
12 argumentative.

13 THE COURT: I'll give you a chance to argue
14 the case at the end, Mr. Leiva.

15 MR. LEIVA: Thank you.

16 THE COURT: Objection sustained.

17 BY MR. LEIVA:

18 Q. You participated in cutting him up into pieces,
19 too, correct?

20 A. Correct.

21 Q. And then you participated in other murders in El
22 Salvador, right?

23 A. Just those two. Mine. Mine.

24 Q. What was that?

25 A. Those are the two I participated in to enter the

1 gang.

2 Q. All right. So, you entered the gang at the age
3 of 9, and then you came to this country at the age of
4 16?

5 A. Correct.

6 Q. And, you would agree with me that killing someone
7 in El Salvador is much easier than killing someone here.

8 A. That's correct.

9 Q. All right. And, you would agree with me that one
10 of the rules that you said, MS-13 rules, is that you
11 kill *chavalas*?

12 A. That's correct.

13 Q. So, you're asking us to believe that from the age
14 of 9 to 16, you only participated in two murders?

15 A. No. Of course, I participated in others, but not
16 that I killed the person personally.

17 Q. Okay. Well, let's do this. Let me make the
18 question a little more general. How many other murders
19 did you participate in, in El Salvador?

20 A. Well, only in one -- another one, in which I
21 participated.

22 Q. All right. Well, I think we're getting hung up
23 on the word "participated." So right now you're
24 admitting to participating in three murders in
25 El Salvador?

1 A. Correct.

2 Q. How many murders did you participate in the
3 planning of in El Salvador?

4 A. Just the two.

5 Q. Which two?

6 A. The one of the Coca-Cola and the one at the
7 river.

8 Q. So the one of Coca-Cola happened when you were
9 nine, right?

10 A. That's correct.

11 Q. So, at nine years old, you help planned a murder.
12 Is that what you're telling us?

13 A. Well, when you talk about helping, you know, do
14 you mean -- do you mean giving ideas, saying, We can do
15 this or the other?

16 Well, what I did was, I was helping them to bring
17 things.

18 Q. All right. So we're going to make that
19 distinction between helping, planning and participating.
20 Is that what you want me to do?

21 A. Of course.

22 Q. Let's -- why don't we just make it easier. How
23 many murders have you had a hand in, whether it be the
24 planning, the participation --

25 THE COURT: Excuse me. Let's avoid the

1 multiple choice questions, if you would.

2 MR. LEIVA: It's not multiple --

3 THE COURT: It is.

4 MR. LEIVA: Your Honor, given what his
5 response is -- all right.

6 BY MR. LEIVA:

7 Q. So, let's go back. All right. How many murders
8 have you assisted in planning in El Salvador?

9 A. Well, only two.

10 Q. How many murders did you participate in?

11 A. In three.

12 Q. So, you came to the United States at the age of
13 16 in 2012; is that correct?

14 A. At 16.

15 Q. In 2012?

16 A. Correct.

17 Q. And once you arrived here in the United States --
18 and correct me if I'm wrong -- you participated in the
19 stabbing of a 12-year-old boy?

20 A. Correct.

21 Q. And that was in 2014?

22 A. Yes.

23 Q. You tried to kill him, right?

24 A. No, no, that was not the intention. The
25 intention was just to scare him.

1 Q. You stabbed him in the stomach or the chest?

2 Where did you stab him?

3 A. In the chest.

4 Q. You were trying to scare him by stabbing him in
5 the chest, right?

6 A. Of course. If I had wanted to kill him, I would
7 have gone to his neck.

8 Q. And that's because you know how to kill, right?

9 A. Obviously, if somebody goes to someone's neck
10 with a knife, how can he not kill him?

11 Q. And you were 18 at the time that you tried to
12 scare this young man by stabbing him in the chest?

13 A. Yes.

14 Q. And then there was another incident where you
15 pulled out a 38 on a kid that you described as being
16 Guatemalan?

17 A. Yes.

18 Q. All right. And I'm assuming you were trying to
19 scare him as well?

20 A. Of course. The gun had no bullets.

21 Q. All right. And then you had another incident
22 where you attacked a one-armed man with a hammer, right?

23 THE INTERPRETER: May counsel repeat the
24 question?

25 BY MR. LEIVA:

1 Q. You had an incident where you attacked a
2 one-armed man with a hammer?

3 A. Yes.

4 Q. And, I'm assuming that you struck this one-armed
5 man with the hammer, with the intention of just scaring
6 him?

7 A. Not exactly. What we wanted was for him to leave
8 that area.

9 Q. And then there was an incident, I believe that
10 you described, also, where you and Lagrima attempted to
11 kill someone in Chirilagua?

12 A. Yes.

13 Q. All right. And you also participated in a rape
14 in Baltimore, right?

15 A. A rape?

16 Q. Yes. You and Lil Slow?

17 A. No.

18 Q. You don't recall that?

19 A. Lil Slow, no.

20 Q. All right. Well, forget Lil Slow, then. You
21 participated in either a rape or an attempted rape in
22 Baltimore.

23 A. Of course not. Rape? No.

24 Q. That's something you wouldn't do?

25 A. Of course not.

1 Q. And, you recall participating in an attempted
2 murder in Baltimore of a person that you believed was a
3 Latin King member?

4 A. That wasn't -- that couldn't be called an
5 attempted murder because, well, we didn't take any
6 action against him, you understand me?

7 Q. I guess I understand you. You had planned to
8 murder him, but he got away?

9 A. Well, the guy was at the house. He arrived
10 there. We had no plan to kill him.

11 Q. You don't recall having a meeting with agents
12 where you told them that, yes, you guys had the
13 intention of killing this young man because you thought
14 he was a Latin King.

15 A. That was the other one, the cousin of that guy.

16 Q. Okay. So, the cousin of the guy in Baltimore,
17 you guys had intentions of killing?

18 A. That's right.

19 Q. Okay. And then, of course, you participated in
20 the Lagrima murder, right?

21 A. Yes.

22 Q. The murder of Gerson Martinez?

23 A. Yes.

24 Q. And, the murder of a young man who you referred
25 to as Julio?

1 A. Yes.

2 Q. So, roughly, we're talking about six murders that
3 you were involved in?

4 A. Five.

5 Q. Five. I'll give you one, then.

6 Now, Mr. Del Cid, you're the type of guy that
7 would shoot his own mother, right?

8 A. If at some point in time that was necessary, yes.
9 But, nowadays, I don't think I would do it.

10 Q. You've changed?

11 A. Of course.

12 Q. But, you actually did, didn't you? You tried to
13 shoot your mother?

14 A. Yes.

15 Q. Now, am I correct to assume, Mr. Del Cid, that
16 you were raised in the streets by the Mara?

17 A. Yes, from my nine years on, yes.

18 Q. So, I'm assuming that being raised in an
19 impoverished country by the Mara, you did whatever it
20 took to survive.

21 A. Yes.

22 Q. You would steal when necessary?

23 A. Actually, living in my country, I would have to
24 do whatever it took to survive.

25 Q. You would lie to survive?

1 A. Of course not. Not now.

2 Q. When you were surviving, when you were in
3 survival mode, you would lie to survive, right?

4 A. Yes.

5 Q. And you would kill?

6 A. Yes.

7 Q. All right. And right now, you're in survival
8 mode right now, right?

9 A. Clearly so.

10 Q. You also, it sounds like, when you would get in
11 trouble, you would often make pacts with the devil,
12 right?

13 A. Yes.

14 Q. And, you would pray to the devil?

15 A. At one point in time, I was doing that.

16 Q. And you would tell the devil that if he got you
17 out of problems, that you would offer him a soul, a
18 fresh soul, in return?

19 A. Oh, that's what all the gang members do.

20 Q. But I'm asking you.

21 A. And I'm telling you what we all do. You
22 understand me?

23 Q. So, your answer is yes, you would do that. You
24 would pray to the devil and offer him a fresh soul if he
25 got you out of whatever problem that you were in?

1 A. That's how we did it.

2 Q. And I'm sure that when you were arrested and
3 charged with two or three murders, you prayed to the
4 devil to get you out of this predicament?

5 A. Of course not. By that time, I wanted to change.
6 No.

7 Q. So, you didn't offer the devil the six souls of
8 these young men in return to get you out of this
9 problem?

10 MS. MARTINEZ: Objection, Your Honor,
11 argumentative.

12 MR. LEIVA: I don't think it's argument,
13 Your Honor.

14 THE COURT: I'll be the judge of that. I
15 sustain the objection. I'll give you a chance to argue
16 the case at the end, Mr. Leiva.

17 MR. LEIVA: Thank you, sir.

18 BY MR. LEIVA:

19 Q. And you would agree with me, sir, that being
20 raised on the streets by the Mara, you have no
21 conscience?

22 A. There's a point in time in life when one's
23 conscience comes back to them, and you begin to be sorry
24 for what you've done.

25 Q. So, after the first murder, your conscience

1 didn't turn on you, then. It didn't hit you then?

2 A. That has always happened, but what could I do
3 otherwise?

4 Q. After the second murder, where you chopped off
5 this young man's arms, your conscience didn't change
6 either?

7 A. That happened every time I did something, but
8 what could I do, since I knew I was going to keep doing
9 it?

10 Q. And by "keep doing it," you mean keep killing.
11 That's what you mean?

12 A. That's right.

13 Q. And then after the third killing in El Salvador,
14 again, your conscience didn't turn you into something
15 different?

16 A. Yes, at that point, yes, that was the point in
17 time when I came here, because I wanted to get away from
18 all that.

19 Q. So, your conscience turned on you and you decided
20 to leave to get away from that, and within 12 months of
21 being here --

22 MS. MARTINEZ: Compound question, Your
23 Honor.

24 THE COURT: You have a penchant for multiple
25 choice questions. Can you ask just one question at a

1 time?

2 MR. LEIVA: Yes, sir.

3 THE COURT: Thank you.

4 BY MR. LEIVA:

5 Q. So, your testimony is that your conscience got to
6 you, correct?

7 A. That's right.

8 Q. So, you decided to leave El Salvador, correct?

9 A. Yes.

10 Q. To get away from that life?

11 A. That's right.

12 Q. And, within 12 months of arriving in this
13 country, you stabbed a 12-year-old boy in the chest.

14 A. Of course, because it wasn't easy, either, to get
15 out of all this.

16 Q. And, your conscience didn't turn on you when you
17 stabbed the 12-year-old in the chest?

18 A. Not at that point in time, but later, yes.

19 Q. And, your conscience didn't turn on you when you
20 pulled out a 38 on a kid?

21 A. Of course not, because I knew I wasn't going to
22 kill him.

23 Q. And, your conscience didn't turn on you as you
24 beat a one-armed man with a hammer?

25 A. Of course. But, the thing is, a fight can come

1 up at any point in time. I'm not going to go crying
2 because of a fight.

3 Q. You're not going to whine over it?

4 A. Exactly.

5 Q. Exactly.

6 Your conscience didn't turn on you when you and
7 Skinny and Lagrima attempted to kill someone in
8 Chirilagua?

9 A. Myself, Silencio, and Lagrima.

10 Q. I'm sorry. I got that wrong.

11 But, either way, your conscience didn't turn on
12 you after you attempted to kill someone in Chirilagua?

13 A. Of course not, because it wasn't I who stabbed
14 the kid in the stomach. It was someone else.

15 Q. But you assisted in chasing that kid down?

16 A. We didn't chase him. We just ran into him in the
17 street.

18 Q. You just ran to him in the street, and assisted
19 your homeboy in stabbing him in the stomach?

20 A. I wouldn't really say helped. I just sort of
21 crossed in front of him on the bike, and Silencio did as
22 well.

23 Q. But you guys were out there roaming the sector,
24 weren't you?

25 A. That's right.

1 Q. You guys were hunting for *chavalas*, right?

2 A. Of course. That's what the homeboys are sent to
3 do.

4 THE INTERPRETER: Oh, wait. One moment.

5 The interpreter corrects.

6 THE WITNESS: That is the what the homeboys
7 sent us to do.

8 BY MR. LEIVA:

9 Q. They sent you to go out there to kill somebody?

10 A. That is right.

11 Q. And, that didn't change your conscience, right?

12 A. Well, no, as I repeat, I didn't kill anyone that
13 day.

14 Q. And, when you killed Lagrima, that did not change
15 your conscience?

16 A. There I began to feel bad, because I knew that he
17 was not ratting us out, and he was just killed on a
18 whim.

19 Q. And after beginning to feel bad for killing
20 Lagrima, you then participate in killing Gerson
21 Martinez?

22 A. Yes. I felt bad at that point in time, but, what
23 could I do to change the situation? If I didn't do it
24 and I didn't help them, then I could end up in the same
25 situation there with Lil Wasón.

1 Q. And sometime after that, you participated in
2 Julio's murder. You just find yourself again in that
3 situation?

4 A. Yes.

5 Q. And after killing Julio, your conscience didn't
6 change, either?

7 A. Yes, it did, clearly. At that point, I told the
8 *locos* that I wanted to change.

9 Q. So, your conscience changed, Mr. Del Cid, once
10 you got arrested and were charged with several counts of
11 murder?

12 A. I felt bad every time. But then, I could look
13 back at the life that I was stuck in and find it very
14 difficult to do anything different.

15 THE INTERPRETER: One moment.

16 The interpreter corrects.

17 THE WITNESS: Once one is locked up, you
18 look back on your life and see what you have done.

19 BY MR. LEIVA:

20 Q. And you would agree with me, when you're looking
21 back at your life to see what you have done, you deserve
22 two life sentences, if not more. Would you agree with
23 that?

24 A. That's right.

25 Q. But rather than accepting that for all the sins

1 that you've committed, you've decided to come in here
2 and try to get a sentence reduced?

3 A. Well, yes. I also saw that as an opportunity to
4 get out of all this, because if one is sent back to the
5 prison with all the *locos*, then you end up killing
6 again.

7 Q. And, let me go back a little and ask you this
8 about the witness protection.

9 It's your understanding that once you're released
10 from prison, you will remain under the Witness
11 Protection Program, right?

12 A. Yes.

13 Q. So, in other words, you're going to remain in
14 this country?

15 A. Well, that isn't something sure that I have
16 either.

17 Q. But, your understanding of the Witness Protection
18 Program is that the U.S. Government will protect you,
19 wherever you are?

20 A. Well, it's not wherever I am, because if I'm in
21 El Salvador, they can't protect me.

22 Q. All right. So, let's go over some -- some
23 definitions or names that you testified to.

24 You referred to someone as Satánico, right?

25 A. Yes.

1 Q. Okay. And --

2 MR. LEIVA: Your Honor, if I could have the
3 translator interpret what that means in English?

4 THE COURT: Interpret what?

5 MR. LEIVA: The term "Satánico."

6 MS. MARTINEZ: Your Honor, I think it would
7 more prudent if he simply asked the witness --

8 MR. LEIVA: Okay.

9 MS. MARTINEZ: -- to explain what it means.

10 BY MR. LEIVA:

11 Q. What does the word "Satánico" mean?

12 A. It's a person who has ties with the devil, a
13 satanic person.

14 Q. Okay. And that individual that you referred to
15 as Satánico, that's also Demente, right?

16 A. Yes, Lil Demente.

17 Q. This gentleman right here? It's Government's
18 Exhibit 75.

19 A. Yes.

20 Q. Okay. He went by the name Satánico, and Demente?

21 A. That's right.

22 Q. You were also asked about the word "locos."

23 A. Yes.

24 Q. That's a general term just meaning friends or
25 dudes, right?

1 A. Yes. But, normally it's also used for a person
2 who has mental problems.

3 Q. Okay. So, let's get into your testimony about
4 Peligroso.

5 A. Okay.

6 Q. All right. I'm going to refer to Satánico as
7 Demente.

8 A. Okay.

9 Q. You recall that Demente gave you a 12-gauge
10 shotgun to hold for him?

11 A. Yes.

12 Q. And, before punishment was going to be executed
13 on Peligroso, Demente asked for the shotgun back; is
14 that correct?

15 A. Yes. The *locos* all said -- not just him, but all
16 the *locos* said to bring the weapon back to the sector.
17 At that time, they also gave us some rules that no
18 soldier could have weapons in his house. Only the
19 runner could have weapons in his house.

20 Q. And, by that, you mean also the first word is the
21 only one in the clique who could have weapons in their
22 house?

23 A. First and second.

24 Q. And so, going back to my question about Demente
25 coming to your home, you recall that he physically came

1 to your home and you gave him that 12-gauge shotgun?

2 A. That's correct.

3 Q. And this was a day or two, or maybe three, before
4 they were supposed to go down and punish Peligroso?

5 A. Yes.

6 Q. And, you also had a machete, right?

7 A. Yes, but it was in -- they had it in the sector.

8 Q. Okay. Did you physically give that machete to
9 Demente before he was going to go down and administer
10 punishment on Peligroso?

11 A. I -- I didn't give it to Demente. I gave it to
12 Lagrima to take it up to the sectors, because there were
13 two machetes.

14 Q. And Lagrima was to be -- excuse me. Lagrima was
15 to originally be a participant in administering
16 punishment to Peligroso, correct?

17 A. No.

18 Q. So, you said there were two machetes. Did you
19 give Lagrima two machetes?

20 A. No, I gave him one. The homeboys had another --
21 the other machete in the sector.

22 Q. And that was Guasón?

23 A. Yes.

24 Q. All right. So, you also testified that there was
25 either a meeting or meetings about the punishment to be

1 administered to Peligroso.

2 A. Yes.

3 Q. And do you recall that there was a meeting next
4 to a 7-Eleven?

5 A. Yes, a meeting in the drain ditch.

6 Q. All right. And you recall that as part of your
7 cooperation agreement, you had a meeting with agents,
8 FBI agents?

9 A. Yes.

10 Q. You had meetings with prosecutors?

11 A. Yes.

12 Q. And, sometimes your attorney was present at these
13 meetings?

14 A. Yes, she was present.

15 Q. Going back to this meeting at 7-Eleven where the
16 discussion of Peligroso's punishment was discussed --

17 A. Okay.

18 Q. -- do you recall telling the agents there that
19 Nocturno was present at that meeting?

20 A. Yes.

21 Q. That Guasón was at that meeting?

22 A. That's correct.

23 Q. Homeboy two?

24 A. Correct.

25 Q. Silencio?

1 A. Yes.

2 Q. You, of course?

3 A. That's correct.

4 Q. Skinny?

5 A. Yes.

6 Q. Demente?

7 A. Yes.

8 Q. Drowsy?

9 A. Yes.

10 Q. And Lagrima?

11 A. That's correct. And Greñas, too, as well as Lil
12 Payaso and everyone.

13 MS. MARTINEZ: Your Honor, may we approach?

14 THE COURT: Yes.

15 (Thereupon, the following side-bar
16 conference was had.)

17 MS. MARTINEZ: I thought it would be a good
18 opportunity to remind everyone that we're not using
19 "homeboy two" when we're talking about the attempted
20 murder of Peligroso. Defense counsel just used "homeboy
21 two."

22 I think Your Honor made it clear before that
23 if there's a mistake on the homeboy two issue that comes
24 through cross, you won't be granting a mistrial. But,
25 nonetheless, the government does not want to see those

1 kinds of mistakes either. I'm sure it was a slip by
2 defense counsel, but we're talking right now about the
3 attempted murder of Peligroso. There should be no
4 reason to using the term "homeboy two."

5 MR. LEIVA: It's okay. So, I'm just clear,
6 you're saying not to mention his real name, or homeboy
7 two at all?

8 MS. MARTINEZ: No. His real name can be
9 mentioned --

10 MR. LEIVA: I gotcha. Because now --

11 THE COURT: Can you tell us what she just
12 said?

13 (Laughter)

14 THE COURT: No, I did that because I want to
15 make sure he understands.

16 MR. LEIVA: "Homeboy two" is only to be used
17 on the Lagrima hit, not on the -- on the Gerson murder
18 or the burial.

19 MS. MARTINEZ: And not on the reburial of
20 Lagrima.

21 THE COURT: Everyone got that?

22 MS. MARTINEZ: It's hard for the
23 cooperators. It's hard for lawyers, too.

24 THE COURT: This trial has a lot of
25 complications here. We try to do it right as best we

1 can. Thank you.

2 Thank you for the bench conference. Good
3 idea. Thank you.

4 MS. MARTINEZ: Thank you.

5 (Thereupon, the side-bar conference was
6 concluded.)

7 THE COURT: Just a moment.

8 You may proceed.

9 MR. LEIVA: Yes.

10 BY MR. LEIVA:

11 Q. Mr. Del Cid, let's keep this simple. I'm going
12 to ask you, do you recall when you had that meeting with
13 the agent and you discussed the meeting that took place
14 at the 7-Eleven?

15 A. Yes.

16 Q. You did not mention that Mr. Lopez Torres was
17 present at that meeting; is that correct?

18 A. Yes, I mentioned him.

19 Q. You also testified on direct about another
20 meeting where the punishment of Peligroso was discussed.

21 A. Yes.

22 Q. And you testified that that meeting took place in
23 an open patio?

24 A. Yes.

25 Q. All right. You also testified that your

1 responsibility during that meeting was to serve as a
2 lookout?

3 A. Yes.

4 Q. And, as a lookout, I'm assuming that you kept
5 some distance away from the homeboys that were at this
6 meeting at the patio?

7 A. That's correct.

8 Q. How far were you from where this meeting was
9 taking place?

10 A. Like, from here to the door.

11 Q. And, this patio, it was on somebody's backyard?

12 A. No, it was between some apartments over there,
13 and the path was going through it.

14 Q. And your job was to keep a lookout for any
15 police, right?

16 A. That's correct.

17 Q. So, you weren't involved in the discussions that
18 these homeboys were having there on the patio?

19 A. Well, I was linked over on the phone. If I was
20 asked something, I would answer.

21 Q. And during that conversation that took place on
22 the patio, is it correct that you were told that the
23 four homeboys that were going to go down and administer
24 punishment on Lagrima was Drowsy --

25 A. Yes. I heard it over the phone.

1 Q. Lagrima?

2 A. No.

3 (Further answer not translated.)

4 Q. Let's do this, just to keep things simple. Let
5 me ask you the names --

6 MS. MARTINEZ: Objection, Your Honor. He
7 was in the middle of an answer.

8 THE COURT: He was, but I want him to answer
9 the question he's asked. It's nonresponsive. Objection
10 sustained (sic).

11 Go ahead, Mr. Leiva.

12 BY MR. LEIVA:

13 Q. On that phone call, you said you heard that
14 Drowsy was going to be a member of one of the four that
15 was going to go down and administer punishment to
16 Peligroso, right?

17 A. That's correct.

18 Q. Demente?

19 A. Yes.

20 Q. Marciano?

21 A. Correct.

22 Q. And Lagrima?

23 A. No. Lagrima was not going to go.

24 Q. So, it's your contention -- and correct me if I'm
25 wrong -- that in all of these meetings, Lagrima's name

1 was not mentioned as someone that was supposed to
2 participate in Peligroso's punishment?

3 A. Well, in those days, he was suspected of being
4 a -- snitching, so they were not going to get him
5 involved.

6 Q. Do you recall telling the agents that the four
7 members that were supposed to participate in the
8 Peligroso punishment were, Drowsy, Lagrima, Demente,
9 Marciano?

10 A. It was Drowsy, Marciano, Lil Demente and Greñas.

11 Q. And your testimony was that the reason why
12 Lagrima was not included because your clique had
13 suspected that he was a snitch?

14 A. Yes.

15 Q. And, your testimony is that they suspected that he
16 was a snitch before October 1st, 2013?

17 A. Well, you understand, that they didn't want to
18 include him, you know, because of the situation he was
19 in at that moment, and the attitude that he had at that
20 time.

21 Q. But, just so we can set a timeline, October 1st,
22 2013, is the date when -- when people drove down to
23 Woodbridge High School.

24 A. That's correct.

25 Q. And your testimony is that before then, Lagrima

1 was not included in the planning because the clique
2 suspected that he was a snitch?

3 A. That's correct.

4 Q. All right. And, you of course, did not
5 participate in going down to Woodbridge to find
6 Peligroso?

7 A. No.

8 Q. And your recollection of the issues that the
9 clique had with Peligroso was that he was setting up his
10 own clique?

11 A. That's correct; and that, also, he was -- he
12 wanted to leave without telling the clique.

13 Q. But he didn't want to leave MS-13. He just
14 wanted to set up his own clique of MS-13, right?

15 A. Well, practically, that was his idea -- that was
16 what he was thinking.

17 Q. All right. Let's move on to the Lagrima murder.

18 A. Okay.

19 Q. Do you recall having a meeting with the agents
20 about Lagrima's murder?

21 A. Yes.

22 Q. You recall having a meeting on the 23rd of
23 November, 2015?

24 A. Yes.

25 Q. All right. And, do you remember telling the

1 agents that Big Payaso told everyone that Lagrima would
2 receive a *calentón*?

3 A. Yes.

4 Q. All right. And, do you also recall meeting with
5 agents and telling them that you did not realize that
6 Lagrima would be killed until right before Lagrima
7 arrived at the meeting where he was eventually killed?

8 A. That's correct.

9 Q. So, from that, am I to take, then, that you
10 believed that that -- at that meeting where he was
11 killed, he was going to actually receive a *calentón*?

12 A. I'm sorry. What did you say?

13 Q. All right. You testified that you did not know
14 that Lagrima was going to be killed until Lagrima
15 arrived at the meeting?

16 A. That's right, but, I had some suspicion of it
17 because we had met three times before that, you know
18 what I mean?

19 Q. You said you had suspicions.

20 A. Yes.

21 Q. What you told the agents was that you did not
22 know that Lagrima was going to be killed until right
23 before he arrived at the meeting.

24 A. How could I say that right away? Because,
25 really, the first day they were just talking about

1 giving him a *calentón*, and so, I couldn't say that right
2 out.

3 Q. What I just want to be sure of, Mr. Del Cid, is
4 that when you met with the agents --

5 THE INTERPRETER: Interpreter adds, "I
6 didn't know they were going to give him a green light."

7 BY MR. LEIVA:

8 Q. Now, your testimony is that your participation in
9 the murder of Lagrima was that you stabbed him, right?

10 A. That's right.

11 Q. How many times did you stab him?

12 A. Some three to five, in addition to the hacking
13 with the machete that I gave him in the legs.

14 Q. And Skinny also stabbed Lagrima, correct?

15 A. That's right.

16 Q. And, you testified that Lil Poison was the first
17 one to start stabbing -- well, let me go back.

18 You -- Cerritos, you know who he is, right?

19 A. Yes.

20 Q. Cerritos is the one that first started stabbing
21 Lagrima?

22 A. Yes.

23 Q. And, when he was doing that, Mr. Lopez -- right
24 before he started doing that, Mr. Lopez Torres was
25 actually just counting, right?

1 A. That's right.

2 Q. And, when Cerritos started stabbing Lagrima,
3 Lagrima was already on the ground?

4 A. Yes.

5 Q. And how many times would you say that Cerritos
6 had stabbed Lagrima when he initially started stabbing
7 Lagrima?

8 THE INTERPRETER: The interpreter requests a
9 repetition.

10 BY MR. LEIVA:

11 Q. Let me do it this way. Cerritos jumped on --
12 would you say Cerritos jumped on Lagrima?

13 A. Well, no, he didn't jump on him. All the rest of
14 us had him held. And he started to give it to him in
15 the stomach.

16 Q. And that's what I'm asking, how many times,
17 because of your gesture. He stabbed him multiple times
18 in the stomach. Is that what your recollection is?

19 A. Of course.

20 Q. And, then, he proceeded to put a machete, I think
21 you said on his neck?

22 A. Yes.

23 Q. Okay. And, your testimony is that after he was
24 repeatedly stabbed in the stomach and had a machete on
25 his neck, that's when he had a conversation with

1 Mr. Lopez Torres?

2 A. No. So, when, Greñas said *trucha* and we started
3 to grab him, he asked, Lagrima asked what we were going
4 to do.

5 And Greñas told him, "Hey, we're going to kill
6 you because you're a rat."

7 He said, "No, I'm not a rat." And then he said,
8 "I'm going to tell you who the rat is, who is ratting on
9 you."

10 And that's when he began to stab him in the
11 stomach and put the machete to his neck.

12 Q. So, your testimony is that he had this whole
13 conversation beforehand, and rather than finding out who
14 the real snitch was, Cerritos decided to start stabbing
15 him in the stomach.

16 MS. MARTINEZ: Objection, Your Honor,
17 compound question.

18 THE COURT: Sustained.

19 BY MR. LEIVA:

20 Q. So I'm clear what you're testimony is, you're
21 testifying that Cerritos stabbed Lagrima -- first
22 stabbed Lagrima after Lagrima had said that he was going
23 to divulge who the snitch was.

24 MS. MARTINEZ: Your Honor, compound
25 question.

1 THE COURT: One at a time, Mr. Leiva.
2 Sustained.

3 BY MR. LEIVA:

4 Q. When Lagrima makes the statement that he's going
5 to reveal who the snitch is, was he standing up or was
6 he on the ground already?

7 A. On the ground. We were grabbing him at that
8 time.

9 Q. And is it your testimony that after he made the
10 statement about the snitch -- well, let me put it to you
11 this way.

12 Did he make the statement about revealing who the
13 snitch was before he was stabbed by anyone?

14 A. (Answer not translated.)

15 (Interpreter conferring with witness.)

16 THE COURT: Sir, if you would listen to the
17 question and answer the question.

18 THE INTERPRETER: It's the interpreter who
19 is struggling.

20 Please repeat the question. I apologize.

21 MR. LEIVA: All right. It's all right.

22 THE INTERPRETER: It's okay. We have it.

23 THE WITNESS: Yeah, he was going to reveal
24 who the rat was when they started giving it -- coming to
25 him with the knife.

1 BY MR. LEIVA:

2 Q. When you say "they," you mean Cerritos started
3 coming to him with a knife after that happened?

4 A. Yeah, of course. You know, he was -- he said,
5 "I'm going to tell you who the rat is," and then he came
6 to him and gave him -- gave it to him in the stomach,
7 and then by the neck.

8 THE INTERPRETER: Interpreter corrects:
9 "puts the machete on his neck."

10 BY MR. LEIVA:

11 Q. After Lagrima had passed, who dragged his body
12 into the hole?

13 A. It was myself, Lil Payaso, Skinny.

14 Q. But not Mr. Lopez Torres, right?

15 A. I don't remember. I don't remember.

16 Q. All right. Let's go to the, what we call, I
17 believe, the reburial.

18 A. Okay.

19 Q. Your testimony is that you did not want to
20 participate in the reburial?

21 A. Well, I was participating in the sense that I was
22 a watchman to make sure nobody saw. But, I wasn't going
23 to be the one who was going to help take the body out of
24 the hole.

25 Q. And, from your recollection, Mr. Lopez Torres did

1 not remove the body from the burial site; is that right?

2 A. Well, he was the one who was out on the street
3 who was watching out, like me, and the one who made the
4 hole, too.

5 Q. And I'm assuming, because this was in a public
6 place, that's why you had more than one lookout, right?

7 A. Well, there were woods and there were several
8 paths.

9 Q. Right. And so the lookouts were you?

10 A. Yes.

11 Q. And Mr. Lopez Torres?

12 A. And Skinny and Lil Poison.

13 Q. And, you guys remained as lookouts until the
14 homeboys unburied Lagrima's body and then reburied his
15 body?

16 A. No. Well, they were there -- well, me, homeboy
17 two, and Tuner and the ones who took the body out.

18 Q. And when you say "they," you mean Mr. Lopez
19 Torres remained as a lookout?

20 A. Yes. But once we took the body up, he went up as
21 well.

22 Q. So, your testimony is that once you took the body
23 up and started moving it, you guys had no lookouts then?

24 A. No, there was only -- well, there were only two,
25 Skinny and Lil Poison, because Greñas went up to put on

1 the acid.

2 Q. So, your recollection is that Skinny was there,
3 right?

4 A. Yes.

5 Q. And that Skinny only served as a lookout once the
6 body was dug up?

7 A. Because, once I went up, I didn't see his
8 position any more.

9 Q. Now, am I correct to assume that the Lagrima
10 murder and the Gerson Martinez murder -- well, let me
11 rephrase that.

12 You guys planned to bury both Lagrima -- let me
13 ask you this way. You planned to bury Lagrima after he
14 was killed, right?

15 A. There was just one plan, because the hole was
16 already made at that time.

17 Q. And, you also planned to bury Gerson Martinez
18 after he was killed?

19 A. That's right.

20 Q. And, that's because the clique didn't want to
21 leave any evidence around, right?

22 A. Of course not. That's what we had been taught.
23 You know what I mean?

24 Q. You had been taught not to leave any evidence
25 around, right?

1 A. Exactly.

2 Q. And that's something that you said that you were
3 taught, being a member of the Mara?

4 A. Of course. And that was what we spoke about as
5 well. We were not going to be stupid and be leaving
6 evidence around there.

7 Q. Exactly.

8 So it doesn't make sense, then, that when it came
9 to Peligroso, that four members would go to a public
10 high school and shoot someone in front of a bunch of
11 people.

12 MS. MARTINEZ: Objection, Your Honor,
13 argumentative and compound question.

14 THE COURT: Sustained.

15 Counsel, we're going to take the afternoon
16 recess now for 15 minutes. Thank you.

17 (Court recessed at 3:30 p.m. and reconvened
18 at 3:46 p.m.)

19 (Jury not present.)

20 MR. LEIVA: Your Honor, I don't have any
21 more questions.

22 THE COURT: Okay.

23 I think Mr. Salvato is coming to the podium.

24 MR. SALVATO: Making my way through,
25 Your Honor.

1 THE COURT: Yes, take your time.

2 MR. SALVATO: We're going to renew our
3 motion for mistrial, Your Honor. The witness did not
4 comply with what the government instructed him about the
5 reburial of Lagrima -- About the reburial of Lagrima.
6 He indicated that homeboy two was involved in the
7 reburial of Lagrima.

8 The question did come from Mr. Leiva. I
9 don't think there should be, however, a blanket rule
10 that if a question comes from any defense attorney, that
11 that would necessarily infringe our rights. Each
12 individual here has their separate right to an
13 appropriate and fair trial.

14 I understand what the Court has said before.
15 However, this witness did -- he went through it with
16 Ms. Martinez. He went through it with the Court. He
17 repeated it, that he understood the admonitions that
18 were given to him, and how important it was.

19 But despite that, he said, with respect to
20 the reburial of Lagrima, that homeboy two was present.

21 So, for that reason, Your Honor, I renew my
22 previous motion for mistrial, and I would ask the Court
23 to grant that motion.

24 MS. MARTINEZ: Your Honor, we -- we
25 obviously oppose that motion. Frankly, I think that

1 what happened -- although it was an error on the
2 witness's part -- I frankly think it helps on the issue
3 of prejudice and confusion to the jury.

4 He earlier -- in his direct testimony, he
5 used homeboy two as talking about the reburial. And
6 then after we all conferred, he talked about Leopardo
7 being involved in the reburial.

8 He has now, many hours later, said homeboy
9 two again in the reburial, which is frankly consistent
10 with what he said on direct examination.

11 To help emphasize that, I intend to ask
12 something on redirect about Leopardo during the
13 reburial.

14 It seems to me, Your Honor, that what the
15 jury is hearing is homeboy two and Leopardo were
16 involved in the reburial.

17 Now we all know differently. I don't know
18 how much Your Honor wants this on the record, but we all
19 understand the purpose of Your Honor's ruling, but,
20 frankly, I think that the confusion to the jury is in
21 some ways helped by the way that this has come out --
22 not the confusion to the jury, but the risk that the
23 jury will understand what Your Honor has --

24 THE COURT: I think --

25 MS. MARTINEZ: -- ordered, they don't

1 understand.

2 THE COURT: I think your point is that
3 because there has been a reference to homeboy two and
4 Leopardo, that suggested there is someone else other
5 than Leopardo who is homeboy two.

6 MS. MARTINEZ: Yes, Your Honor.

7 THE COURT: All right. Thank you.

8 It is late in the day, and it's now about
9 3:49 p.m. This witness has been on the stand for a long
10 period of time, and he is trying to adhere to the
11 Court's ruling. There's more cross-examination to go,
12 and I'm told that he's the last cooperator.

13 It seems to me, from where I sit, that the
14 cross-examination of the cooperators has been very
15 effective from the standpoint of each lawyer exercising
16 their right to cross-examination, and going over in
17 detail all the things that have been said on direct
18 examination, as you're entitled to do so.

19 The risk we run here has occurred, and I
20 prefer it not to happen again. And I think that the way
21 to get around that is to use leading questions with
22 respect to that one ruling. And, yes, you are entitled
23 to cross-examine each of the witnesses.

24 So, my request is that you all do that, and
25 also decide if, you know, if what you want to do is to

1 reiterate all direct examination with respect to each
2 witness. You're entitled to do that if you'd like.

3 So, to be clear, I don't think that error
4 has occurred. I do think that the reference to homeboy
5 two and Leopardo, now twice, suggests that homeboy two
6 might be somebody other than Leopardo.

7 And the government, I think, will ask about
8 Leopardo on redirect, and I think that that will, for
9 right now, cover the situation.

10 Thank you. So the motion for mistrial is
11 denied.

12 MS. MARTINEZ: Your Honor, does Your Honor
13 want the witness to be instructed again?

14 THE COURT: No. I don't think -- I think
15 that starting over just draws more attention to it.

16 Can you bring the witness out, please.
17 (Witness resumed stand.)

18 THE COURT: Ready to bring the jury out?
19 Thank you.

20 (Jury present.)

21 THE COURT: You may be seated.

22 MR. LEIVA: I have no more questions, Your
23 Honor.

24 THE COURT: All right.
25 You may proceed.

CROSS-EXAMINATION

1
2 BY MR. AQUINO:

3 Q. Good afternoon. My name is Jerry Aquino. My
4 co-counsel is Elita Amato. We represent Jesus Chavez.

5 Sir, you actually enjoy killing human beings,
6 isn't that the case?

7 A. Well, of course not. That's not the issue. It's
8 that I did what the gang ordered me to do.

9 Q. When you pulled the trigger to shoot your mother,
10 did you look into her eyes?

11 A. No.

12 Q. Now, you entered the United States in 2012; is
13 that accurate?

14 A. That's correct.

15 Q. You were living in -- I'm sorry. You were living
16 in the Chirilagua area of the city of Alexandria,
17 correct?

18 A. That's correct.

19 Q. And, do you know a gentleman by the name of
20 Daniel Blandin? Blandin?

21 A. No, frankly, I don't.

22 Q. Isn't it accurate that on July 21st of 2012, you
23 attempted to choke him to death?

24 A. No, frankly, no, I don't recall.

25 Q. You don't remember chasing him with a knife?

1 MS. MARTINEZ: Objection. He's stated he
2 doesn't know who defense counsel is talking about, so,
3 these questions at this point have no relevance.

4 MR. AQUINO: Well, I asked him about choking
5 this person to death. Maybe if I refresh his memory by
6 asking him the question about stabbing, he might
7 recollect it.

8 THE COURT: Overruled.

9 BY MR. AQUINO:

10 Q. Sir, on July 21st of 2012, did you attempt to
11 stab and kill Mr. Daniel Blandin?

12 A. No.

13 Q. Now, your desire in this case is to get out of
14 jail as soon as possible; isn't that accurate?

15 A. Of course.

16 Q. You want to get back in the community, right?

17 A. That's correct.

18 Q. And, you need the assistance of Ms. Martinez to
19 do that; is that accurate?

20 A. Of course not. It doesn't depend on her. It's
21 not up to her. It's up to the judge.

22 Q. I don't think that's the whole truth, is it?

23 A. That's the way I see it.

24 Q. The way I see it is you need her to file a
25 motion --

1 MS. MARTINEZ: Objection to the how defense
2 counsel sees anything.

3 THE COURT: Objection sustained.

4 BY MR. AQUINO:

5 Q. Isn't it true that you testified earlier that you
6 know that Ms. Martinez has to file a motion before the
7 judge has any power to reduce your sentence?

8 MR. JENKINS: Your Honor, in the future, can
9 we just have counsel to object and state in one word or
10 as few words as possible what their objection is? I
11 think all counsel understands the rules of evidence.

12 THE COURT: I think that's a very important
13 recognition, to remind everyone to refrain from speaking
14 objections, because you'll be called out the next time
15 you do it.

16 (Question translated.)

17 THE WITNESS: That's correct.

18 BY MR. AQUINO:

19 Q. So, again, to be clear, you need Ms. Martinez's
20 help to get out of jail, correct?

21 A. Well, yeah.

22 Q. You've met with Ms. Martinez several times about
23 this case, right?

24 A. Yes.

25 Q. You hope she likes you, right?

1 A. Of course not.

2 Q. Now, it's with her help that you expect to get
3 out of jail, correct?

4 A. And the judge's, too.

5 Q. Okay. Now, so far, the U.S. Attorney's Office
6 has done a lot to get you out of jail; isn't that
7 accurate?

8 A. Well, get out, no.

9 Q. Now, isn't it correct that the United States
10 Attorney's Office has gone to the Commonwealth
11 Attorney's Office in Prince William County, so that you
12 would not be prosecuted in the state system for your --
13 for your role in the conspiracy to commit murder in
14 Garfield High School, in the fall of 2013?

15 A. I don't understand the question.

16 Q. Sure. Isn't it correct that the United States
17 Attorney's Office, on your behalf, has approached the
18 Commonwealth Attorney's Office in Prince William County,
19 so that they will not prosecute you for your role in a
20 murder conspiracy in the fall of 2013?

21 A. Yes, that's correct.

22 Q. And isn't it true that the United States
23 Attorney's Office, on your behalf, has gone to the
24 Fairfax County Commonwealth Attorney's Office, such that
25 you will not be prosecuted for your role in the stabbing

1 of a juvenile by the initials of JR on January 2nd of
2 2014?

3 A. That's correct.

4 Q. And, isn't it true that the United States
5 Attorney's Office, on your behalf, has gone to the
6 Commonwealth Attorney's Office in the city of Alexandria
7 so that you would not be prosecuted for your role in an
8 assault stabbing that occurred on August 25th, 2013, in
9 the Mount Vernon area -- Mount Vernon Avenue area in the
10 city of Alexandria?

11 A. That's right.

12 Q. But, you want more than that from the United
13 States Attorney's Office and Ms. Martinez, correct?

14 A. Of course.

15 Q. You want help with your immigration status,
16 correct?

17 A. If that were possible, clearly so.

18 Q. Sure. And you want to get your sentence, your
19 two life sentence -- two life sentences for murder
20 reduced as much as possible, correct?

21 A. That's what I'm hoping for.

22 Q. And the reason why you want to get back in the
23 community is so that you can continue with killing human
24 beings; isn't that accurate?

25 MS. MARTINEZ: Objection, Your Honor,

1 argumentative.

2 THE COURT: Sustained. I'll give you a
3 chance to argue the case at the end, Mr. Aquino.

4 BY MR. AQUINO:

5 Q. Now, you would agree, would you not, that you lie
6 often?

7 A. Well, no, of course not.

8 Q. Okay. You said your name was Jose Del Cid; is
9 that correct?

10 A. That's right.

11 Q. And, you also go by the name of Jose Marquez; is
12 that correct?

13 A. That's my same name. Because, Marquez was the
14 last name of my father.

15 Q. And, you also go by the name of Gabriel Cabrera;
16 is that correct?

17 A. That's right.

18 Q. So, why -- I have one name. Why do you have
19 three?

20 A. I also have just one name, but that's the name I
21 gave the police when I didn't want them to pick me up.

22 Q. Okay. So, for example, when you were arrested on
23 July 2nd of 2014, you told the police that your name was
24 Gabriel Cabrera, correct?

25 A. I told them I was Jose Del Cid.

1 Q. Now, a second ago you said you gave out a false
2 name to the police to prevent your apprehension. Am I
3 characterizing it correctly?

4 A. That's why -- it wasn't that time when I was
5 arrested. It was another time that I gave that other
6 name.

7 Q. In which you lied to the police, correct?

8 A. That was the time I lied to the police.

9 Q. But you wouldn't lie to these people on the jury,
10 would you?

11 A. Of course not.

12 Q. Okay. And so, the real purpose of false names is
13 to trick people; is that accurate?

14 A. Well, that would be the case, yes.

15 Q. Now, when you first gave the police a statement
16 after your arrest on July 2nd of 2014, you met with
17 Detective Victor Ignacio; is that accurate?

18 A. Yes.

19 Q. And, you told Detective Ignacio that you did not
20 know anything about this case and the death of Julio
21 Urrutia; is that accurate?

22 A. That's right.

23 Q. And, are you saying now, today, that that was a
24 lie?

25 A. Of course. The -- how could it be that someone

1 when you're right away arrested, you're going to admit
2 that you participated in a murder like that?

3 Q. Now, later on July 2nd of 2014, you said that --
4 you told Detective Ignacio that Crazy Guanaco was the
5 one that shot Mr. Urrutia. Is that accurate?

6 A. Of course, that was the day when I was arrested,
7 and I wasn't going to tell the truth the same very day
8 that I was arrested, the very same day that I was
9 arrested.

10 Q. So, that was a lie, too, is what you're saying
11 today?

12 A. Of course. Because at that point in time, I
13 didn't have a lawyer present or anything, you know what
14 I mean?

15 Q. And then you told Detective Ignacio that Gatuso
16 was the one that, in your mind, pulled the gun for the
17 shooting of Mr. Urrutia; is that correct?

18 A. I told him he had a weapon, but it was a knife.

19 Q. And, Gatuso was one of the people that you
20 mentioned earlier that was in on the murder of
21 Mr. Urrutia; is that correct?

22 A. Yes.

23 Q. So, right from the start, upon your arrest, you
24 identified Gatuso as participating in the murder of
25 Mr. Urrutia. Is that accurate?

1 A. Yes.

2 Q. Okay. Now, you also told Detective Ignacio that
3 you knew a guy named Chuy, right?

4 A. Yes.

5 Q. And, you know my client, Mr. Chavez, uses the
6 name of Chuy, correct?

7 A. Yes.

8 Q. And, you addressed him as Chuy, correct?

9 A. Yes.

10 Q. And, you would agree that when you met with
11 Detective Ignacio on July 2nd, you said that Chuy was
12 the shooter of Mr. Urrutia, but not this Chuy; isn't
13 that accurate?

14 A. I told him that it was Chuy. I never told him it
15 was another Chuy.

16 Q. Now, you have persisted since that time with
17 materially different statements that you have given out
18 to law enforcement, correct?

19 A. Of course not. Because, after that, I told them
20 how everything really happened.

21 Q. Now, you would agree that you met with
22 Ms. Martinez, sitting here, on October 1st of 2014,
23 correct?

24 A. Yes.

25 Q. And, she wasn't by herself, there were other law

1 enforcement personnel there, correct?

2 A. Yes.

3 Q. And you also met with her again on November 19th
4 of 2014, correct?

5 A. Yes.

6 Q. And, you also met with her on February 2nd of
7 this year, 2016; is that accurate?

8 A. That's right.

9 Q. Now, earlier in your testimony today, you
10 indicated that Jesus told Sixto, Solano, to leave the
11 area immediately before the shooting of Mr. Urrutia; is
12 that correct?

13 A. I told him to stay back, because three of us was
14 enough --

15 THE INTERPRETER: Interpreter corrects.

16 THE WITNESS: He told him --

17 THE INTERPRETER: Thank you.

18 THE WITNESS: -- that three of us was
19 enough, so he should stay back.

20 BY MR. AQUINO:

21 Q. And your testimony is that Jesus made that
22 statement to Sixto Solano, correct?

23 A. Yes.

24 Q. Now, on February 2nd of 2016, you indicated that
25 you were the one who told Solano to leave the area prior

1 to the Urrutia shooting. Isn't that correct?

2 A. I told them that it was Chuy who did it.

3 Q. And on July 2nd of 2014, when you met with
4 Detective Ignacio, you never mentioned Sixto Solano at
5 all in your conversation with him, correct?

6 A. That's right. I didn't say anything.

7 Q. But you did mention the name of Jefferson Amaya,
8 correct?

9 A. Yes, yes.

10 Q. So the name of Jefferson Amaya remains
11 consistent, but Sixto -- with what you said previously;
12 is that accurate?

13 A. Well, Jefferson was there, but only when the two
14 guys were fighting.

15 Q. Okay. But, following that, following your
16 discussion with Detective Ignacio on July 2nd of 2014,
17 now your story changes such that Mr. Solano appears to
18 be on the scene of the shooting, correct?

19 A. Of course, because, as I said, and I'll tell you
20 again, I was not going to tell the whole truth to the
21 detective on the very day of my arrest.

22 Q. Now, again, to be clear, you met with
23 Ms. Martinez on February 2nd of this year, correct?

24 A. Yes.

25 Q. And you told her that following the shooting,

1 that you and Jesus went upstairs to the apartment of
2 Mickey Mouse to return the gun. Is that accurate?

3 A. Yes.

4 Q. But, on November 19th of 2014, you told
5 Ms. Martinez that after the shooting, Jesus went
6 upstairs by himself and you remained downstairs. Isn't
7 that accurate?

8 A. Yes. In time, I was remembering parts of how
9 things had happened.

10 Q. Story changed, correct?

11 A. Yes, but it was the same story.

12 Q. Now, you say that you went to Mickey Mouse's
13 apartment, correct?

14 A. That's correct.

15 Q. And, he's also known as Oscar, correct?

16 A. Yes. I found out that his name was Oscar when he
17 came to Chuy's mom's house.

18 Q. And you also testified about a name of Slick. Do
19 you remember testifying to that earlier?

20 A. Yes.

21 Q. Are Slick and Oscar the same person?

22 A. Slick, Oscar, Mickey Mouse are the same person.

23 Q. Okay. And you told Ms. Martinez about Slick,
24 Mickey Mouse, Oscar, correct?

25 A. Correct.

1 Q. Do you see Slick, Mickey Mouse or Oscar in the
2 courtroom today?

3 A. No.

4 Q. As far as you know, he's not been charged with
5 any crime, correct?

6 MS. MARTINEZ: Objection to the relevance.

7 THE COURT: Relevance?

8 MR. AQUINO: It goes to his knowledge of the
9 incident that occurred, Judge.

10 THE COURT: Objection sustained.

11 BY MR. AQUINO:

12 Q. Now, on February 2nd, 2016, you told Ms. Martinez
13 that the gun was returned to Mickey Mouse immediately
14 following the shooting; is that correct?

15 A. Yes, of course. After Chuy fired, we run to his
16 apartment and give him back the gun.

17 Q. And that's your testimony today, right? That you
18 went upstairs with Jesus and returned the gun to Mickey
19 Mouse, correct?

20 A. That's correct.

21 Q. And it occurred immediately following the
22 shooting, that is, right after?

23 A. Well, yeah, of course, but there's a difference
24 between right away, immediately, and two minutes,
25 because it took us about two or three minutes to run

1 over to the house. I could say immediately, but, I
2 mean, for me it's the same thing.

3 Q. So, within two or three minutes following the
4 shooting, you returned the gun, with Jesus, to Mickey
5 Mouse; is that correct?

6 A. That's correct.

7 Q. But on November 19th of 2014, you told
8 Ms. Martinez that the gun was returned to Slick, Mickey
9 Mouse, Oscar, the day after the shooting; isn't that
10 correct?

11 A. No.

12 Q. And isn't it true, on July 2nd of 2014, that you
13 told Detective Ignacio that Gatuso took the weapon
14 following the shooting?

15 A. No.

16 Q. Now, you testified earlier in the day that
17 immediately following the shooting, two or three
18 minutes, that you were able to obtain a new shirt from
19 Oscar, Mickey Mouse, Slick, correct?

20 A. Yes, two or three minutes. It took us about two,
21 three minutes to get to the house. We went upstairs.
22 Chuy gave him the gun. He gave me the shirt.

23 Q. Now, when you met with Ms. Martinez on
24 November 19th of 2015, you never said a word about the
25 shirt, correct?

1 A. No.

2 Q. I mean, what I'm saying is accurate, correct?

3 A. Yes, it's accurate.

4 Q. Now, so, your memory improved; is that it?

5 A. Yes, of course. As I repeat, I was remembering
6 things, that they were happening.

7 Q. So your memory is better today --

8 THE INTERPRETER: Interpreter correction:
9 "With time, I was remembering things as they were
10 happening."

11 BY MR. AQUINO:

12 Q. Your memory is better today than it was on
13 November 19th of 2014, correct?

14 A. No, no. It's -- it's the same. You know, you
15 know, one remembers more things of how it happened, you
16 know.

17 Q. Now, Gatuso was also known as Sen Genaro Garcia,
18 is that right?

19 A. Yes.

20 Q. On October 1st of 2014, you told Ms. Martinez
21 that you saw Gatuso, that is, Mr. Garcia, the morning
22 after the shooting, correct?

23 A. No, that's not true.

24 Q. Isn't it true that on November 19th, 2014, you
25 switched and told Ms. Martinez that you were with

1 Mr. Chavez the morning following the shooting?

2 A. No, of course I didn't switch, because I told her
3 the same thing as I told her the first time.

4 Q. Do you know that witnesses to the shooting told
5 the police that the shooter --

6 MS. MARTINEZ: Objection, Your Honor --

7 BY MR. AQUINO:

8 Q. -- had tattoos on his arm?

9 MS. MARTINEZ: -- hearsay.

10 THE COURT: Excuse me. Excuse me.

11 Sustained.

12 BY MR. AQUINO:

13 Q. Sir --

14 MR. AQUINO: Can we pull up an Exhibit 73?

15 BY MR. AQUINO:

16 Q. Is that your picture?

17 A. That's correct.

18 Q. You have tattoos on your arms?

19 A. Yes.

20 Q. Now, we're looking at your left arm, is that
21 correct, there?

22 A. Yes.

23 Q. So, it appears you have a tattoo towards the top
24 of your left arm; is that correct?

25 A. Yes.

1 Q. And you also have a tattoo towards the bottom of
2 your left arm?

3 A. Yes.

4 Q. And, do you also have a tattoo on your right arm?

5 A. Yes.

6 Q. Did you shoot Mr. Urrutia on June 19th, 2014?

7 THE INTERPRETER: 2014?

8 THE WITNESS: No.

9 BY MR. AQUINO:

10 Q. Sir, you're in jail right now, correct?

11 A. That's right.

12 Q. Guards tell you when to get up in the morning; is
13 that correct?

14 A. No. I get up in the morning. I wake up and I
15 get up on my own.

16 Q. Guards tell you when to have breakfast; is that
17 correct?

18 A. No.

19 Q. They decide at the jail when you have lunch,
20 correct?

21 A. Well, that -- that is the -- the meals that they
22 routinely have there, but there are other things. One
23 can eat when one wants.

24 Q. And they tell you when to have dinner; is that
25 correct?

1 A. Yes.

2 Q. Guards tell you when to go to bed at night,
3 correct?

4 A. Well, of course not, you know, because their job
5 is to lock you in the cell. When you go to sleep is
6 your own business.

7 Q. And there're some pretty mean people in jail,
8 aren't there?

9 A. Well, not everyone is mean in the jail, you know,
10 because they also lock up innocent people.

11 Q. You're not innocent, are you?

12 A. Of course not, because I know what I did.

13 Q. Sometimes in jail it can get really noisy, right?

14 A. That's correct.

15 Q. Sometimes, it flat out stinks in jail, doesn't
16 it?

17 A. Yes.

18 Q. And you have this to look forward to, as of this
19 second, for the rest of your life, right?

20 A. Of course, but it's not what I hope for. I hope
21 to get out some day.

22 Q. That wouldn't influence your testimony in front
23 of this jury, would it?

24 A. Of course not. I came here to tell the truth.

25 Q. Now, again, you know Gatuso, Sen Genaro Garcia,

1 correct?

2 A. Yes.

3 Q. And you knew him before you were arrested for
4 this offense on July 2nd of 2014, correct?

5 A. Yes, I had known him for about two months before.

6 Q. Okay. And, you've been housed -- or you were
7 housed at the Alexandria Jail; is that correct?

8 A. I was also in the Arlington one.

9 Q. Okay. And for a period of about eight months,
10 you were at the same jail as Gatuso, that is, Sen Genaro
11 Garcia, right?

12 A. I think so.

13 Q. You spoke to him, didn't you?

14 THE INTERPRETER: Can counsel repeat the
15 question?

16 MR. AQUINO: Sure.

17 BY MR. AQUINO:

18 Q. You spoke to Gatuso, right, while you were at the
19 jail?

20 A. Yes, on one occasion that I saw him.

21 Q. And, you discussed the details of this case when
22 you met with him, correct?

23 A. Of course not, because he just went by and I went
24 by, too.

25 Q. Now, again, you know Detective Ignacio, correct?

1 A. Yes.

2 Q. And, when he questioned you about this case, he
3 shared information that he had with you about this case,
4 correct?

5 A. Of course not.

6 Q. He told you nothing, what anybody else was saying
7 about this case; is that accurate?

8 A. No.

9 Q. Do you see Detective Victor Ignacio in the
10 courtroom today?

11 A. No.

12 Q. Now, earlier you testified that you prayed to the
13 devil, correct?

14 A. Yes.

15 Q. And, did the devil authorize you or give you
16 permission to lie to people?

17 A. No.

18 Q. So, the -- the devil doesn't allow lying, but the
19 devil allows murdering people; is that correct?

20 A. No, of course not. Because, those are personal
21 decisions that one makes one's self.

22 Q. The truth is, you feel that the devil gave you
23 permission to lie, correct?

24 A. No.

25 Q. Now, you've been the subject of a green light

1 before; is that accurate?

2 A. What do you mean? No.

3 Q. Weren't you the -- didn't you tell law
4 enforcement that you were the subject of a green light
5 by MS-13?

6 A. No. Well, now I am a green lighter, because I'm
7 a rat.

8 Q. Didn't you tell law enforcement that the devil
9 saved you from a green light from MS-13?

10 A. I didn't tell them that. I told them that I had
11 been saved of other things, not of that.

12 Q. And you told law enforcement the shooting of
13 Mr. Urrutia was because the devil had saved you before
14 from some of your crimes, correct?

15 A. Well, no. What I said, you know, is that
16 everyone, one kills someone is for the beast. One
17 offers that to the beast.

18 Q. Okay. And the beast saved you, saved you
19 because -- and you offered the shooting of Mr. Urrutia
20 to the beast; is that correct?

21 MS. MARTINEZ: Objection, compound question.

22 THE COURT: Sustained.

23 BY MR. AQUINO:

24 Q. The shooting -- you told law enforcement that the
25 shooting of Mr. Urrutia was because the beast had saved

1 you before, correct?

2 A. Of course not. I had said that I had done
3 something with my hands, and it was after the death that
4 I offered the death to the devil. But it's not like I
5 did it for that purpose.

6 Q. Now, earlier, you testified --

7 THE INTERPRETER: Interpreter adds: "So I
8 would not be arrested."

9 BY MR. AQUINO:

10 Q. Earlier you testified about a telephone call that
11 you had with Junior on June 27th, of 2014; is that
12 correct?

13 A. Yes.

14 Q. And the gist of that call was that Junior was
15 informing you that the gang was unhappy about the
16 shooting of Mr. Urrutia, correct?

17 A. Well, no, that wasn't the main topic. The topic
18 was how things had taken place.

19 Q. You knew that you could get a green light upon
20 you for an unauthorized killing; isn't that accurate?

21 A. Of course not. Because, if a *chavala* walks in
22 front of you and you kill him, the *locos* are not going
23 to do anything to you because of that. That's already
24 part of the thing.

25 Q. Mr. Urrutia was a former MS-13 member, correct?

1 A. I don't know. I never found out.

2 Q. One of the rules of the gang is you cannot kill
3 an MS-13 member without permission, correct?

4 A. Exactly. But, that's when you know about it.

5 Q. You knew, when you had that phone call with
6 Junior, that you were in trouble, correct?

7 A. No, of course not, because that was a hit that
8 Chuy had done as well on the part of the gang.

9 MR. AQUINO: That's all the questions I
10 have.

11 CROSS-EXAMINATION

12 BY MR. CHICK:

13 Q. Good afternoon, sir. How are you?

14 A. Fine.

15 Q. Holding up all right?

16 A. Yes.

17 Q. Okay. My name is Mike Chick. I'm the attorney
18 for Manuel Ernesto Paiz Guevara.

19 MR. CHICK: Paiz Guevara.

20 THE INTERPRETER: Paiz Guevara.

21 THE WITNESS: Okay.

22 MR. CHICK: Can we pull up Government's
23 Exhibit 104-D?

24 BY MR. CHICK:

25 Q. Okay. You see that photo, right?

1 A. Yes.

2 Q. The government asked you a lot of questions about
3 everybody who's in the photo. My question is, do you
4 know who took that photo?

5 A. I honestly don't remember, because we had been
6 drinking that night.

7 Q. Okay. Do you know what -- what device that photo
8 was taken from?

9 Was it taken from a phone, a camera?

10 A. Yes, with a phone.

11 Q. Okay. Do you know whose phone it was taken by?

12 A. No, because, that photo was sent around to all
13 the phones of the homeboy, and I never knew which phone
14 it was taken with.

15 Q. Okay. Somebody took it and then they sent it out
16 to a bunch of people?

17 A. That's right.

18 Q. Okay.

19 MR. CHICK: We can -- yes.

20 BY MR. CHICK:

21 Q. You said you -- you were kicked out of your house
22 by your mom; is that right?

23 A. That's right, because of problems I had with my
24 brother. We were always fighting, and my mom didn't
25 like it, and she had a certain preference for my older

1 brother, and so that's how things were.

2 Q. And, you were nine years old at the time?

3 A. Yes.

4 Q. Um, and then you said you moved down and you
5 lived by, I think you said it was a river?

6 A. No. That night I went to sleep by the river.

7 Q. Okay. And you didn't have anybody else,
8 family-wise, in your life after that, then?

9 A. Yes, I did, but I never wanted to go there.

10 Q. Okay. Fair to say, from the time you were nine
11 years old, you were -- you were on your own?

12 A. Yes.

13 Q. But, what was that like? Do you remember?

14 A. Yes, I remember. It's like the person that I am
15 right now. Alone.

16 Q. And, you essentially were -- is it fair to say
17 you were raised -- raised on the streets?

18 A. Yes, you could say so.

19 Q. And, so in terms of the education that you
20 received, about how the world works, that education came
21 not from your mother or your father or your family?

22 MR. JENKINS: Objection, Your Honor,
23 relevancy.

24 MR. CHICK: Your Honor, it was talked about
25 extensively on direct examination. I'm just --

1 THE COURT: If you would like to reiterate
2 all the direct examination, you could do that, but I
3 thought you might want to use cross-examination for
4 other purposes. But if you'd like to, go ahead.

5 MR. CHICK: Thank you, Your Honor.

6 BY MR. CHICK:

7 Q. You were raised -- you were educated about the
8 world and how the world works not by your family; is
9 that correct?

10 A. Right. It -- my family wouldn't come into it
11 because I never spent time with them.

12 Q. Okay. And the people who really educated you
13 were gang members?

14 A. Yes, and also other civilian people, too. Yes, a
15 child in El Salvador, a nine-year-old, we grow up a lot
16 faster there.

17 MS. MARTELL: Objection, Your Honor. We
18 need to approach.

19 THE COURT: Well, before you -- let me
20 sustain the objection.

21 And, Mr. Chick, I would like to come to
22 America now and talk about this trial. If you have
23 questions about that, please ask them now. If you
24 don't, you can sit down.

25 MR. CHICK: Yes, sir.

1 BY MR. CHICK:

2 Q. You're 20 years old now?

3 A. That's right.

4 Q. And, you've survived during all these years since
5 you left your mom's family.

6 THE COURT: You have nothing more to say,
7 Mr. Chick?

8 MR. CHICK: Your Honor, I do.

9 THE COURT: I've asked you to talk about
10 this trial. There's plenty to cross-examine about, if
11 you'd like to do that, about this trial. We're not
12 going to talk about his whole life story. We've heard
13 that already.

14 Move on, please.

15 BY MR. CHICK:

16 Q. Part of your survival over the years has been
17 learning --

18 THE COURT: Mr. Chick. Sit down. Just sit
19 down.

20 MR. CHICK: Your Honor, I do have several
21 more questions.

22 THE COURT: Well, then ask a question that's
23 relevant, now, if you would, please, sir.

24 MR. CHICK: Your Honor, can I just have my
25 objection noted for the record?

1 THE COURT: It's all being taken down by the
2 court reporter.

3 MR. CHICK: Yes, sir.

4 BY MR. CHICK:

5 Q. You said on direct examination that Solitario was
6 part of the plan to -- he took part in the planning of
7 the murder of Lil Guasón.

8 A. Yes, that's right.

9 Q. Okay. Let me ask you about when you -- when you
10 first were interviewed about that murder, okay?

11 A. Okay.

12 Q. That was when you were talking to Detective
13 Ignacio, right?

14 A. Yes.

15 Q. And, also present was Detective Buckley?

16 A. That's right.

17 Q. And then there was a third person, it was FBI
18 Agent Baer, right?

19 A. That's right.

20 Q. And, when they were -- when they were
21 interviewing you prior to getting into the details of
22 the Lil Guasón murder, they told you that --

23 MS. MARTINEZ: Objection, Your Honor,
24 hearsay.

25 MR. CHICK: Your Honor, I can tell you what

1 it is. It's not true or false.

2 THE COURT: That's fine. The objection is
3 sustained. Thank you.

4 BY MR. CHICK:

5 Q. During your interview with law enforcement on
6 that day, you had the impression that you had an
7 opportunity to help yourself, right?

8 A. That's right.

9 Q. And, you had the impression that the opportunity
10 to help yourself was based on you telling the truth,
11 right?

12 A. Of course.

13 Q. And, not 50 percent, but a hundred percent?

14 A. That's right.

15 Q. And, your impression was that was an opportunity
16 to have a second chance at life?

17 A. That's right.

18 Q. A second chance to raise your own family?

19 A. Of course. It was an opportunity to try to have
20 a new life, to have a different life.

21 Q. And that was very appealing to you, wasn't it?

22 A. Of course.

23 Q. And, once that impression was given to you,
24 that's when you started to talk about the details of the
25 Lil Guasón murder, right?

1 A. Yes.

2 Q. And so, what you told them at that time was --
3 this is the first time you talked about that murder.
4 You told them that the people who were there for the
5 murder were Guepardo, correct? Guasón, also known as
6 Lil Poison?

7 A. Yes.

8 Q. Lil Payaso?

9 A. Yes.

10 Q. Lil Tuner?

11 A. That's right.

12 Q. And yourself?

13 A. Yes.

14 Solitario, too.

15 Q. You told them Solitario?

16 A. Yes.

17 Q. Okay. Didn't you actually tell them that there
18 was a *chequeo* there, and that his name was Misionero?

19 A. Yes. Solitario and Misionero are the same
20 person.

21 Q. Solitario and Misionero are the same person?

22 A. Yes.

23 Q. And, when you -- what you told them about
24 Misionero is that he was there, but that he didn't do
25 anything?

1 A. No, of course not. What I told them, you know,
2 is that he had helped them cut Lil Guasón's head.

3 Q. So, your testimony today is that when you met
4 with Detective Ignacio, Detective Buckley, and FBI Agent
5 Baer, you told them that the *chequeo*, Misionero,
6 participated in the murder?

7 A. Correct.

8 Q. You told them the truth on that day?

9 A. Yes. I told them, you know, how things had
10 happened.

11 Q. You met with the government several times. I
12 won't go into all the dates. But, you were asked
13 about -- let me ask you about one specific date. You
14 met with them on October 16, 2014. Do you remember
15 that?

16 A. Yes.

17 Q. And you talked about the meeting that was had
18 where the plan was hatched to murder Lil Guasón, right?

19 A. Yes.

20 Q. And all the details of the plan were covered?

21 A. Correct.

22 Q. And, you did say that you were sort of in and out
23 of that meeting because you were selling marijuana, I
24 think; is that right?

25 A. Yes, I did on one occasion, because it was a

1 call, someone wanted a 20 of marijuana. Nobody wanted
2 to go, so I was sent.

3 Q. Okay. Solitario was not at that meeting, was he?

4 A. Yes, he was present.

5 Q. He was?

6 A. He was.

7 Q. You didn't tell the government that he was at
8 that meeting, did you?

9 A. Yes, I told them.

10 Q. So -- and when I'm saying "the government," that
11 was the meeting you had with Julia Martinez, Stephen
12 Campbell, at least those two, and then also Agent Uribe
13 and Detective Betts. They were all there, right?

14 A. Correct.

15 Q. You talked about the actual event when Lil Guasón
16 was stabbed. Let me ask you, do you remember whether
17 Solitario froze up when that started happening?

18 A. No, frankly, no.

19 Q. He didn't back away at all, or anything like
20 that?

21 A. No. He knew if he backed away, what would happen
22 to him, too.

23 Q. And, so, you would have never -- you would have
24 never told that to Detective Betts and Ms. Martinez and
25 Agent Uribe either, right?

1 A. What do you mean, I would have never told that?

2 Q. You would have never said he backed away?

3 A. No, but I told them what, how things had
4 happened, what he had done and how things had happened.

5 Q. Okay.

6 MR. CHICK: Thank you very much for your
7 time. No further questions.

8 THE COURT: You may proceed.

9 MR. SALVATO: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. SALVATO:

12 Q. Good morning, sir -- good afternoon, sir. My
13 name is Frank Salvato. I'm here for Christian Lemus
14 Cerna.

15 MR. SALVATO: Bless you.

16 THE WITNESS: Good afternoon.

17 BY MR. SALVATO:

18 Q. Sir, you were using drugs during the time period
19 of this case, correct?

20 A. No.

21 Q. You were smoking marijuana?

22 A. No.

23 Q. You never smoked marijuana?

24 A. Previously in my life, before I was arrested,
25 yes.

1 Q. When did you start smoking marijuana?

2 A. Oh, I don't remember. A long time ago.

3 Q. When is a long time ago?

4 A. About seven years.

5 Q. So, in --

6 A. Seven years ago.

7 Q. Seven years ago.

8 So, in 2013 and 2014, you were smoking marijuana,
9 correct?

10 A. Yes.

11 Q. And, how many times a week were you smoking
12 marijuana?

13 A. Two, three times a week.

14 Q. And where would you get your marijuana from?

15 A. Well, at sometimes, you know, the clique would
16 give you ounces or half ounces to sell. You were given
17 a certain period of time to sell it. And when you
18 wouldn't sell it, I would buy it for my -- on my own. I
19 would pay for it and then I would smoke it.

20 Q. And you were also using alcohol at this time?

21 A. Yes.

22 Q. And, you were also using cocaine, correct?

23 A. No, not cocaine. I've only used it about twice
24 in my life.

25 Q. Okay. When were those two times?

1 A. Once in El Salvador, and once here.

2 Q. Okay. And I only want to talk about here in this
3 case. When did you use cocaine in this case, when you
4 were here in the United States?

5 A. The year before last.

6 Q. So, it would be 2014?

7 A. Yes.

8 Q. And, your use was against the rules, that it was
9 to be a dry rule, right, no smoking or drinking or using
10 drugs?

11 A. Correct, but, you know, all the homeboys were
12 doing it, you know. All of them would say, "Yeah, yeah,
13 right," but, they would continue smoking it.

14 Q. I want to focus on you, okay?

15 A. Okay.

16 Q. And if you can answer my question yes or no, I'd
17 like you to do that. Is that okay?

18 A. Okay.

19 Q. You were using marijuana, correct?

20 A. Yes.

21 Q. And this was against the rules that you stated of
22 MS-13, correct?

23 A. Yes.

24 Q. And, you were using it two to three times a week,
25 correct?

1 A. Of course.

2 Q. Over a two-year period, correct?

3 A. That's right.

4 Q. So, you broke the rules about 200 times, right?

5 A. Yes.

6 And I apologize for replying to you with another
7 question --

8 THE INTERPRETER: Sorry.

9 THE WITNESS: -- with another answer, but it
10 was that everyone was doing it.

11 BY MR. SALVATO:

12 Q. Again, I want to focus on you.

13 A. Okay.

14 Q. And if you can answer me yes or no, please do.
15 Okay?

16 A. Okay.

17 Q. You used marijuana two to three times a week?

18 A. That's correct, sir.

19 Q. Over a two-year period, correct?

20 A. Yes.

21 Q. Fifty-two weeks in a year?

22 A. That's correct.

23 Q. So, you used marijuana about 200 times over this
24 two-year period, true?

25 A. You could say that, yes.

1 Q. I could say that, but, that's the fact, correct?

2 A. Yes.

3 Q. So, you broke the rules 200 times, correct?

4 A. That's right.

5 Q. And you received no punishment for this, true?

6 A. Yes, I got a *calentón* several times for smoking.

7 Q. How many *calentóns* did you receive?

8 A. That I remember, two.

9 Q. So you received one *calentón* for every 100 times
10 that you violated the rules?

11 A. Yes.

12 Q. Were you using -- and you were using marijuana on
13 the night Lil Guasón got killed, correct?

14 A. No, of course not. Because Guepardo and Tuner
15 were the ones who smoked that night. They offered me,
16 but I told them that I didn't want to smoke.

17 Q. Okay. So that -- so, you smoked 200 times over a
18 two-year period, yet you didn't smoke that night?

19 A. That's right, because I didn't like to smoke with
20 them. And, another thing, when we were going to do
21 something like that, I didn't want to have been smoking.

22 Q. So, you preferred to smoke alone?

23 A. That's right.

24 Q. You never smoked marijuana with anybody else?

25 A. Yes, I have smoked with many people.

1 Q. And you know Skinny, correct?

2 A. That's right.

3 Q. And, Skinny was using drugs at this time period,
4 right?

5 A. Everyone.

6 Q. Well, I asked about Skinny, okay?

7 A. Okay.

8 Q. So, if I -- if you can give me a yes or no --

9 THE COURT: Excuse me. Excuse me.

10 MR. SALVATO: It's 5:00 o'clock.

11 THE COURT: Well, actually I think it's a
12 good time to stop.

13 MR. SALVATO: Thank you, Your Honor.

14 THE COURT: We will resume tomorrow.

15 Ladies and gentlemen, do not discuss the
16 case. Don't permit the case to be discussed in your
17 presence. Don't do any research on the case. Don't do
18 any posting on social media or anything like that.
19 Don't review any media reports. There may be something
20 in the paper or online. Don't read it. And don't visit
21 any locations mentioned. Leave your notes in the jury
22 deliberation room.

23 We will resume tomorrow at 10:00 o'clock.

24 Thank you.

25 (Jury not present.)

1 THE COURT: Just a minute. You all can be
2 seated.

3 Ms. Martell.

4 MS. MARTELL: Yes.

5 THE COURT: I have your motion and the
6 government's opposition. Did you all resolve it? Is it
7 resolved now?

8 MS. MARTELL: I apologize for asking this,
9 Your Honor, but we filed several motions.

10 THE COURT: Oh, I see. Well, this one is
11 called document number 852, docket entry, motion to
12 compel *Giglio* disclosure.

13 MS. MARTELL: Your Honor, we believe we've
14 gotten that information at this point.

15 THE COURT: Thank you.

16 MS. MARTELL: And I did notice docket number
17 852.

18 We're now in recess. Thank you.

19 (Proceedings concluded at 5:01 p.m.)

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CERTIFICATE OF REPORTER

I, Renecia Wilson, an official court reporter for the United States District Court of Virginia, Alexandria Division, do hereby certify that I reported by machine shorthand, in my official capacity, the proceedings had upon the jury trial in the case of UNITED STATES OF AMERICA v. JOSE LOPEZ TORRES, et al.

I further certify that I was authorized and did report by stenotype the proceedings in said jury trial, and that the foregoing pages, numbered 1 to 181, inclusive, constitute the official transcript of said proceedings as taken from my shorthand notes.

IN WITNESS WHEREOF, I have hereto subscribed my name this 24th day of May, 2016.

/s/

Renecia Wilson, RMR, CRR
Official Court Reporter